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International Court of Justice

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Official transcript of the International Military Tribunal in the matter of The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering et al, Defendants, sitting at Nurnberg, Germany, on 16 January 1946, 1000-1300, Lord Justice Lawrence, presiding.

CAPTAIN SPRECHER: May it please the Tribunal, I now pass to activities which involve Schirach in the commission of crimes against humanity as they bear directly on Count 1. The presentation of all specific acts will deal with the Reichsgau Vienna, but first allow me to refer back to two important points in the previous proof, which will show that Schirach bears responsibility for war crimes and crimes against humanity which bring in the whole of Europe. Through his agreements with Himmler he provided, through the Hitler Youth, many if not most of the SS men who administered, in the main, the concentration camps, and whose war crimes and crimes against humanity throughout Europe generally are notorious.

Nor should we pass to further specific acts of Schirach without mentioning one more thing, that he cannot escape responsibility for implanting in youth the Nazi ideology generally, with its tenets of a master race, "sub-human" peoples, and "Lebensraum" and world domination. For such notions were the psychological prerequisites for the instigation and for the toleration of the atrocities which zealous Nazis committed throughout Germany and the occupied countries.

To present Schirach's responsibilities for crimes committed within the Reichsgau Vienna, where Schirach was Gau Leader and Reich Governor from July 1940 until the downfall, the general basic functions of these two offices must be held in mind.

The first document I refer to is Document No. 1893 PS. This is an extract from the party manual of 1943 and therefore catches Schirach in midstream in his activities in the Reichsgau Vienna. That is page 42 of the Document Book, at pages 70, 71, 75, 98, 136 and 140b of the party manual, extracts from each of those pages appearing in your document book.

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The following highlights concerning the Gau leader's functions will appear, and I propose only to paraphrase. Since your Honors may take judicial notice of the party manual, you may check at your leisure unless you wish me to read from any one of these specific orders. These orders make it appear that the Gau leader was the highest representative of Hitler in his Gau, that he was the bearer of sovereignty, the top "Hoheitstraeger", and that he had sovereign political rights. Beyond that he was responsible for the entire political situation in his Gau. He could call -- and we believe this is important -- upon SR and SSleaders as "needed in the execution of a political mission."

Beyond that he was obliged to meet at least once month with the leaders of the affiliated Party organizations within his Gau, and this of course will include the SS. The position of Reich Governor in Vienna was somewhat special. After the Anschluss the State of Austria was abolished and Austria was divided into 7 administrative Reich Gaus. The most important was the Reichsgau Vienna, of which Schirach was governor. Reference to any statistical manual or the like at this time will establish that at that time Vienna had a population of over two million people. Therefore it was certainly one of the principal cities of the Reich. The Tribunal is asked to take judicial notice of the decree, 1939 RGBl., Part I, p.777, our Document No.3301-PS, found at page 107 of the Document Book. This is basic law on the administrative reorganization of Austria, enacted in April 1939, a little more than a year before Schirach became Reich Governor. This law shows that Schirach, as Governor, was the lieutenant of the head of the German State, Hitler; that he could issue decrees and orders within limitations set by the Supreme Reich authorities; that he was specially under the administrative supervision of the defendant Frick, Reich Minister of the Interior; and that he was also first mayor of the city of Vienna. For the same period that Schirach was Gau leader and Reich Governor of Vienna, he was also Reich Defense Commissioner of Vienna, and after 1940, of course, the Reich was engaged in war.

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Because of his far-reaching responsibilities and authority in these positions, the prosecution contends that Schirach must be held guilty, specifically, of all the crimes of the Nazi conspirators in the Reichsgau Vienna, on the ground that he either initiated, approved, executed or abetted these crimes. Specific examples follow which in fact demonstrate that Schirach was actively and personally engaged in Nazi crimes and that when he became boastful, a characteristic never lacking in a number of these defendants, he himself admitted his own involvement in acts which are crimes within the competence of this Tribunal.

I come first to slave labor.

The slave labor program naturally played its part in staffing the industries of an important city like Vienna. The general nature of this program and the crimes flowing therefrom has in part been set before you by Mr. Dodd and the Soviet prosecution will present further acts later on. Document No. 3352-PS, found at P. 116 of the Document Book which I would like to offer as U.S. Exhibit 206, gives extracts from a number of orders from the Party Chancellory which bear on the Gau Leader's responsibility for manpower placement and utilization in Germany. They prove quite simply and in unmistakeable language that the Gau Leaders under the direction of the experienced old Gau Leader Sauckel, who was then Plenipotentiary for Manpower after March 1942, became the supreme integrating and coordinating agents of the Nazi conspirators in the entire manpower program. At page 508 of the original volume of orders (page 116 of the Document Book), the defendant Goering is shown to have agreed, as leader of the Four-Year Plan, to Sauckel's suggestion that the Gau Leaders be utilized to assure the highest efficiency in manpower. At page 511 (page 117 of the Document Book), Sauckel in July 1942 makes the Gau Leaders his special plenipotentiaries on manpower within their Gaus, with the duty of establishing a harmonious cooperation of all interests concerned. In effect the Gau Leader became the supreme arbitrator for all the conflicting interests that exist during wartime with respect to claims upon manpower. Under this same order the Provincial Labor Offices and their staffs were "directed to be at the disposal of the Gau Leaders for information and advice and to fulfill

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the suggestions and demands of the Gau Leader for the purpose of improvements in manpower." At page 567 of the Party Chancellory Order (p. 118 and 119 of the Document Book), the defendant Sauckel ordered that his special plenipotentiaries, the Gau Leaders, familiarize themselves with the general regulations on Eastern Workers. He stated that his immediate objective was "to avoid that politically inept factory heads --

THE PRESIDENT: Where is this?

CAPTAIN SPRECHER: That is at pages 118 and 119.

THE PRESIDENT: Yes, but when you are quoting you might draw our attention to the part of the page you are quoting from.

CAPTAIN SPRECHER: It is over on the next page, 119, your Honor.

THE PRESIDENT: Very well; go on.

CAPTAIN SPRECHER: Towards the end of the entire document:

He stated that his immediate objective was "to avoid that politically inept factory heads give too much consideration to the care of the Eastern workers and thereby cause justified annoyance among the German workers."

We submit to the Tribunal that if Schirach as Gau leader was required to concern himself in such manpower details as concern over the alleged annoyance of German workers for the consideration given Eastern workers, it is unnecessary to press further into the detailed workings of the manpower program to establish Schirach's connection and responsibility to the Slave Labor Program in the Reichsgau Vienna.

I now pass to the persecution of the churches.

The elimination of the religious youth organizations while Schirach was chief Nazi youth leader has already been noted. In March 1941 two letters, one from the defendant Bormann, the other from the conspirator Hans Lammers--

THE PRESIDENT: Captain Sprecher, have you any other evidence which connects von Schirach with the problem of manpower?

CAPTAIN SPRECHER: I planned to present nothing further, your Honor. I felt that in view of the fact that our Soviet colleagues are going further with the details of the manpower program, particularly in the East, the main objective under Count 1 should merely be to show the general responsibil

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of the defendant Schirach for the Slave Labor Program. The question of specific acts will have to be inferred from the other proof that is in the record and that which will come into the record later.

THE PRESIDENT: Very well.

CAPTAIN SPRECHER: There is just one further point: When I come to treat of the Jews in a few minutes, there will be one or two specific examples.

THE PRESIDENT: You are now going to deal with the persecution of churches, is that right?

CAPTAIN SPRECHER: Yes, sir.

The Tribunal has referred to Document R 146, at page 5 of the Document Book. This is offered as U.S. Exhibit 678.

I am a little in doubt, your Honors, as to whether I should read all this document, in view of our common anxiousness to pass rapidly on; but perhaps I may paraphrase it and if you are not satisfied I will read it.

These documents establish clearly that during a visit by Hitler to Vienna Schirach and two other officials raised with the Fuehrer a complaint that the confiscations of church properties in Austria, made on various pretexts, should be made in favor of the Gaus rather than of the Reich, and later the Fuehrer decided the issue in favor of the position which had been taken by Schirach, namely, in favor of the Gau. I use this merely to connect Schirach with the persecution of the churches, concerning which there has been a great deal of evidence before this time.

THE TRIBUNAL (By Mr. Biddle): None of it is in evidence yet. You haven't put anything in evidence. We can't take judicial notice of somethin unless you ask us to.

CAPTAIN SPRECHER: Your ruling is that this wouldn't be in evidence unless I read it?

THE TRIBUNAL (By Mr. Biddle): I am not making any ruling; I was merel pointing out to you that we have nothing in evidence on the last document.

CAPTAIN SPRECHER: I think, under the circumstances I had better read th document.

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"Muenchen, 20 March, 1941, Brown House.

"C i r c u l a r L e t t e r No. 5g

"To all Gauleiters

"Subject Matter: Sequestration of Church Properties

"Valuable church properties had to be sequested to a large extent lately, especially in Austria; according to reports of the Gauleiter to the Fuehrer these sequestrations were frequently caused by offences against ordinances relating to war economy (e.g. hoarding of food-stuffs of various kinds, textiles, leather-goods etc.),. In other cases they were caused by offences against the Law relating to malicious attacks against the State and in some cases because of prohibited possession of firearms. Obviously no compensation is to be paid to the Churches for sequestrations made because of the above-mentioned reasons.

"With regard to further sequestrations, several Austrian Gauleiter have attempted to clarify the question who should acquire such sequestered properties at the occasion of the Fuehrer's last visit to Vienna. Please take note of the Fuehrer's decision, as contained in the letter written by Reich Minister Dr. Lammers to the Reich Minister for the Interior, dated 14, March 1941. I enclose copy of extracts of same.

"(signed) M. Bormann".

I had offered that document as U.S. Exhibit 678. Do you still wish me to read the enclosure that went with it?

THE TRIBUNAL (By Mr. Biddle): I don't wish you to read anything; I was simply pointing out that, as you read it, it wasn't in evidence.

CAPTAIN SPRECHER: In that event I will continue. The copy reads as follows:

"The Reich Minister and Chief of the Reich Chancellery

"To the Reich Minister for the Interior

"Subject: Draft of an ordinance supplementing the provisions on confiscation of property inimical to People and State.

"Re. letter of this office dated 27 January 1941.

"The Reich Governor's and Gauleiter von Schirach, Dr. Jury , and Eigruber complained recently to the Fuehrer that the Reich-Minister of Finance still

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maintains the point of view that confiscation of property inimical to the People and State should be made in favor of the Reich and not in favor of the Reich-Gaue. As a consequence the Fuehrer has informed me that he desires the confiscation of such properties to be effected in favor of the respective Reich-Gau, in which area the confiscated property is situated, and not in favor of the Reich."

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THE PRESIDENT: You need not read any more of it.

CAPTAIN SPRECHER: I pass over now to the Jewish persecution.

The Prosecution submits, finally, that Schirach authorized, directed, and participated in anti-Semitic measures. Of course, the whole ideology and teaching of the Hitler Youth was predicated upon the Nazi racial myth. Before the war, Schirach addressed a meeting of the National Socialist German Students League, the organization he headed from 1929 to 1931.

Document 2441, offered as US Exhibit 679, is an affidavit by Gregor Ziemer. I wish to read merely from the bottom of page 95 of the Document Book to the end of the first paragraph at the top of page 96 of the Document Book.

Ziemer is referring to a meeting at Heidelberg, Germany, which he attended, some time before the war, personally, at which Baldur von Schirach addressed the Students League, which he at one time himself led.

THE PRESIDENT: What is this document?

CAPTAIN SPRECHER: This is 2441.

THE PRESIDENT: I mean, what sort of a document is it?

CAPTAIN SPRECHER: It is an affidavit of Gregor Ziemer.

"He"--meaning Schirach--"declared that the most important phase of German university life in the Third Reich was the program of the NSDSTB. He extolled various activities of the Bund. He reminded the boys of the service they had rendered during the Jewish purge. Dramatically, he pointed across the river to the old university town of Heidelberg where several burnt-out synagogues were mute witnesses of the efficiency of Heidelberg students. These skeleton buildings would remain there for centuries as inspiration for future students, as warning to enemies of the state."

To attempt to visualize the true extent of the fiendish treatment of Jews under Schirach, we must look to his activities in the Reichsgau, Vienna, to the activities of his assistants, the SS and the Gestapo, in Vienna.

Document No. 1948, page 63 of your Document Book, is offered as US Exhibit 680. You will note it is on the stationery of the last Governor of Vienna.

THE PRESIDENT: Captain Sprecher, I have been reading on in this document 2441-PS, on page 22. It seems to me you ought to read the next three para-

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graphs, page 96, in red, from the place where you left off.

CAPTAIN SPRECHER: Yes, sir.

THE PRESIDENT: The second, third, and fourth paragraphs.

CAPTAIN SPRECHER: "Even as old Heidelberg Castle was evidence that old Germany had been too weak to resist the invading Frenchmen who destroyed it, so the black remains of the synagogues would be a perpetual monument reminding the coming generations of the strength of New Germany.

"He reminded the students that there were still countries who squandered their time and energy with books and wasteful discussions about abstract topics of philosophy and metaphysics. Those days were over. New Germany was a land of action. The other countries were sound asleep.

"But he was in favor of letting them sleep. The more soundly they slumbered, the better opportunity for the men of the Third Reich to prepare for more action. The day would come when students of Heidelberg would take their places side by side with legions of other students to conquer the world for the ideology of Nazism."

I was about to refer, Your Honors, to document number 1948-PS, which is found at page 63 of your Document Book, and which I offer as US Exhibit 680. This, you will note, is on the stationery of the Reich Governor of Vienna, The Reichsstatthalter:

"Vienna, 7 November 1940.

"Subject: Compulsory labor of able-bodies Jews.

"1. Notice:

"On 5 November 1940 telephone conversation with Colonel (Standartenfuehrer) Huber of the Gestapo. The Gestapo has received directions from the Reich Security Main Office (RSHA) as to how able-bodies Jews should be drafted for the compulsory labor service. Investigations are being made at present by the Gestapo to find out how many able-bodied Jews are still available, in order to make plans for the contemplated mass projects. It is assumed that there are nor many more Jews available. If some should still be available, however, the Gestapo has no scruples to use the Jews even for the removal of the destroyed synagogues.

"SS Colonel Huber will report personally to the 'Regierungspraesident'

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in this matter.

"I have reported to the 'Regierungspraesident' accordingly. The matter should further be kept in mind."

The signature is by Dr. Fischer.

I want to call the Court's attention to the significance of the title "Regierungspraesident". The SS Colonel, you will note, was to report to the Regierungspraesident. If you will refer back again to the decree which set up the Reichstag, Vienna, 1939 Reichsgesetzblatt, Part I, page 777, you will find that the Regierungspraesident was Schirach's personal representative within the governmental administration of Vienna.

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Now, it seems to us that this Document 1948 which was signed by Fischer, concerning compulsory labor of able-bodied Jews, answers the argument that persons of the rank of Gauleiter were ignorant of the atrocities of the Gestapo and the SS in their own locality. It shows further that even the assistants of the Gau leaders were informed of the details of the persecution projects which were afoot at the time.

Schirach also had concern for and knowledge of the housing shortage in Vienna, which was alleviated for some members of the alleged "Master Race" who succeeded to the houses of the luckless Jews who were moved into the oblivion of Poland.

On December 3, 1940, the conspirator Lammers wrote a letter to Schriach. It is our Document 1950, page 64 of your Document Book, and it is offered in evidence as US Exhibit 681. The letter is very short:

"Berlin, 3 December 1940."

It is on the stationary of the Reich Minister and Chief of the Reich Chancellery, and it is marked "secret". It is to the Reich Govenor in Vienna, Gauleiter von Schirach:

"As Reichsleiter Bormann informs me, the Fuehrer has decided, after receipt of one of the reports made by you, that the 60,000 Jews still residing in the Reichsgau, Vienna, will be deported most rapidly — that is, still during the war — to the General Government, because of the housing shortage prevalent in Vienna.

"I have informed the Govenor General in Cracow, as well as Reichsfuehrer SS, about this decision of the Fuehrer, and I request you also to take cognizance of it."

Signed, "Lammers".

As a last piece of illustrative evidence against this youngest member of the defendants in the dock, I take something from how own lips, which was published for all Vienna, and indeed, for all Germany and the world to know even at that time. It appears in the Vienna edition of the Voelkischer Beobachter, on the 15th of September 1942, Document 3048-PS, your Document Book page 106. It is already in evidence as US Exhibit 274.

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I would like to point out that these words were uttered before the so-called European Youth League in Vienna in 1942.

The Tribunal will recall that Schirach was still Reich Leader for Youth Education in the NSDAP at that time:

"Every Jew who exerts influence in Europe is a danger to European culture. If anyone reproaches me with having driven from this city, which was once the European metropolis of Jewry, tens of thousands upon tens of thousands of Jews into the ghetto of the East, I feel myself compelled to reply, 'I see in this an action contributing to European culture!.'"

Although Schirach's principal assistance to the conspiracy was made in his commission of the German Youth to the conspirators' objectives, he also stands guilty of heinous crimes against humanity as a Party and governmental administrator of high standing after the conspiracy had reached its inevitable involvement in wars of aggression.

This completes, Your Honors, the presentation on the individual responsibility of the Defendant Schirach.

The Prosecution will next take up the responsibility of the Defendant Martin Bormann, and the presentation will be made by Lieutenant Lambert.

DR. FRITZ SAUTER (Counsel for Defendant von Schirach): Mr.President, as to the various errors made in the case against Schirach, I shall take a position when I have a chance to conduct my defense. But I should like to take the opportunity now to point out an error in translation in one of the documents. That is Document 3352; I believe it is page 117 in the Document Book -- 117 or 116.

It is an order of the Reich Chancellery to the subordinate offices, and this order concerns itself with the fact that the work departments must be at the disposal of the Gauleiter under certain circumstances. In the German original of this order it reads as follows: "anregungen und wuensche."

The first translation -- I mean, the translation for "anregungen" -- we consider to be correct; but the second translation, namely, "demand" for "wuensche", we hold to be false, because, so far as we know, the

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word "demand" means such as "befehl" or "forderunger" in German, and is much stronger than "wuensche". We would hold it to be correct if the English translation "demand" could be changed to the word "wishes", which is an exact translation of the word "wuensche." I don't know whether I have pronounced the word exactly correctly in English.

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So much for the time being. I thank you.

THE PRESIDENT: Do you wish to say anything about that?

CAPTAIN SPRECHER: I think that Dr. Sauter has made a very good point. I have checked with the translator beside me, your Honor, and the German word "wuensche" has been translated too strongly.

THE PRESIDENT: Very well.

LIEUTENANT THOMAS F. LAMBERT, JR: May it please the Tribunal, the Prosecution comes now to deal with the Defendant Bormann, and to present the proofs establishing his responsibility for the crimes set forth in the Indictment. And if the Tribunal will allow, we should like to observe on the threshold that because of the absence of the Defendant Bormann from the dock, we believe that we should make an extra effort to make a solid record in the case against Bormann, out of fairness to Defense Counsel and for the convenience of the Tribunal.

I offer the document book supporting this trial address as USA Exhibit JJ, together with the trial brief against the Defendant Bormann.

The Defendant Bormann bears a major responsibility for promoting the accession to power of the Nazi conspirators, the consolidation of their total power over Germany, and the preparation for aggressive war set forth in Count I of the Indictment.

Upon the record of this trial the Nazi Party and its Leadership Corps were the main vehicle of the conspiracy and the fountain-head of the conspiracy.

Now, following the flight of the Defendant Hess to Scotland, in May, 1941, Bormann became Executive Chief of the Nazi Party. His official title was Chief of the Party Chancery. Before that date Bormann was Chief of Staff to the Defendant Hess, the Deputy of the Fuehrer.

By virtue of these two powerful positions--Chief of the Party Chancery and Chief of Staff to the Deputy of the Fuehrer--Bormann

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stands revealed as a principal architect of the conspiracy. Subject only, and we stress, subject only to the supreme authority of Hitler, Bormann engineered and employed the vast powers of the Party, its agencies and formations, in furtherance of the Nazi conspiracy, and he employed the Party to impose the will of the conspirators upon the German people--and he then directed the powers of the Party in the drive to dominate Europe.

Accordingly, the Defendant Bormann is blameworthy for the multiple crimes of the conspiracy, for the multiple crimes committed by the Party, its agencies and the German people, in furthering the conspiracy.

It might be helpful to give a very brief sketch of the career in conspiracy of the Defendant Bormann.

Bormann began his conspiratorial activities more than 20 years ago. In 1922, only 22 years of age, he joined the Organization Rossbach, one of the illegal groups which continued the militaristic traditions of the German Army and employed terror against the small struggling pacifist minority in Germany. While he was District Leader for this organization in Mecklenburg he was arrested and tried for his part in a political assassination which, we suggest, indicates his disposition to use illegal methods to carry out purposes satisfactory to himself. On 15 May, 1924, he was found guilty by the State Tribunal for the Protection of the Republic and sentenced to one year in prison.

Upon his release from prison in 1925 Bormann resumed his subversive activities. He joined the militarist organization, Frontbann, and in the same year he joined the Nazi Party and began his ascent to a prominent position in the conspiracy. In 1927 he became Press Chief for the Party Gau of Thuringia. In other words, relating back to the case against the Leadership Corps, he became an important staff officer and a Gauleiter. On 1 April, 1928, he was made District Leader, Bezirksleiter, in Thuringia, and business manager for the entire Gau.

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We come now to a particularly important point, involving Bormann's tie-up with the SA.

From 15 November 1928 to August 1930 he was on the staff of the Supreme Command of the SA.

Now, the Tribunal has heard the demonstration of the criminality of the SA, and knows full well that this was a semi-military organization of young men whose main mission was to get control of the streets, and to impost terror on oppositional elements of the conspiracy.

Our submission at this stage is that by virtue of Bormann's position on the staff of the Supreme Command of the SA, he shares responsibility for the illegal activities of the SA in furtherance of the conspiracy.

In August 1930 Bormann organized the Aid Fund, Hilfhasse, of the Nazi Party, of which he became head. Through this fund he collected large sums for the alleged purpose of aiding the families of Party members who had been killed or injured while fighting for the Party.

As the Tribunal knows, on 30 January 1933, the conspirators and their Party took over the Government of Germany. Shortly thereafter, in July 1933, Bormann was given the number three position in the Party, that of Chief of Staff to the Defendant Hess, the Deputy of the Fuehrer. At the same time, he was made a Reichsleiter, and, as the Tribunal knows, that makes him a member of the top level of the alleged illegal organization, the Leadership Corps of the Nazi Party.

In November 1933 he was made a member of the Reichstag.

I request the Tribunal to take judicial notice of the authoritative German publication, "The Greater German Reichstag", edition of 1943. The facts which I have recited in the foregoing sketch of Defendant Bormann's career are set forth on page 167 of that publication, the English translation of which appears in Document 2981-PS of the Document Book now before the Tribunal.

With respect to Bormann's conviction for political murder, I offer in evidence Document 3355-PS, USA Exhibit 682, which is the affidavit of Dr. Robert M.W. Kempner, and I quote therefrom briefly as follows:

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"I, Robert M. W. Kempner, an expert consultant of the War Department, appeared before the undersigned attesting officer and, having been duly sworn, stated as follows:

"In my capacity as Superior Government Counsellor and Chief Legal Advisor of the pre-Hitler Prussian Police Administration, I became officially acquainted with the criminal record of Martin Bormann, identical with the Defendant Martin Bormann now under indictment before the International Military Tribunal in Nurnberg, Germany.

"The official criminal record of Martin Bormann contained the following entry:

"Bormann, Martin, sentenced on May 15, 1924, by the State Tribunal for the Protection of the Republic, in Leipzig, Germany, to one year in prison, for having been an accomplice in the commission of a political murder. Signed: Robert M. W. Kempner." End of quotation.

THE PRESIDENT: Lt. Lambert, I don't think it is necessary for you, in dealing with a document of that sort, to read the formal parts. If you state the nature of the document and read the material part, you needn't deal with the formal parts; for instance, "I, Robert Kempner, an expert consultant", and all that. Do you understand me?

LT. LAMBERT: Thank you very much, sir, for a very helpful suggestion.

As Defendant Hess' Chief of Staff, Bormann was responsible for receiving and channeling up to the Defendant Hess the demands of the Party in all fields of state action. These demands were then secured by the Defendant Hess by virtue of his participation in the legislative process, his power with respect to the appointment and promotion of government officials, and by virtue of his position in the Reich Cabinet.

I come now, as it seems to us, to an important point, which ties up the Defendant Bormann with the SD and the Gestap o. As Chief of Staff to the Defendant Hess, Bormann took measures to reinforce the grip of the Gestapo and the SD over the German civil population. I request the Tribunal to notice judicially a Bormann order of 14 February 1935, set forth in the official publication, "Decrees of the Deputy of the Fuehrer", Edicition 1937, page 257.

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I quote merely the pertinent portions of that decree, the English version of which is set forth in our Document 3237-PS, which reads as follows. That is our Document 3237-PS.

THE PRESIDENT: If you can summarize it -- if it is a document of which we can take judicial notice, it is sufficient for you to summarize it without reading it.

LT. LAMBERT: I appreciate that, sir. This quotation is so succinct and so brief that we perhaps could avoid --

THE PRESIDENT: Very well, go on.

LT. LAMBERT: (quoting) "The Deputy of the Fuehrer expects that Party Offices will now abandon all distrust of the SD and will support it wholeheartedly in solving the difficult tasks with which it has been entrusted in order to protect the Movement and our people.

"Because the work ofthe Party is primarily benefited by the work of the SD, it is unadmissable that its expansion be upset by prejudiced attacks when individuals fail. On the contrary, it must be wholeheartedly assisted. Signed, Bormann, Chief of Staff to the Deputy of the Fuehrer." End of quotation. That is with respect to Bormann's support of the SD.

I deal now with Bormann's effort to support the work of the Gestapo.

THE PRESIDENT: Lt. Lambert, wouldn't it be sufficient to say that that document indicates the support Bormann promised to the SD?

LT. LAMBERT: I was anxious merely on one point, sir, that a document that was not in evidence unless it had neen quoted.

THE PRESIDENT: Well, you began by asking us to take judicial notice of it.

LT. LAMBERT: Yes, sir.

THE PRESIDENT: If we can take judicial notice of it --

LT. LAMBERT: Then it needn't be quoted?

THE PRESIDENT. It needn't bequoted That is what I am saying.

LT. LAMBERT: Then with respect to Bormann's efforts to reinforce the grip of the Gestapo, I request the Tribunal to notice judicially a Bormann order of 3 September, 1935, calling on Party agencies to report to the Gestapo all persons who criticize Nazi institutions or the Nazi Party. This decree appears in the official Party publication, "Decrees of the Deputy of the Fuehrer", 1937, at page 190. The English translation is set forth in our Document 3239-PS. I shall summarize the effect of this document shortly. In its first paragraph it refers to a law of 20 December 1934. As the Tribunal will recall, this law gave the same protection to Party institutions and Party uniforms as enjoyed by the State; and in the first and second paragraphs of this decree it is indicated that whenever a case came up involving malicious or slanderous attack on Party members or the Nazi Party or its institutions, the Reich Minister of Justice would consult with the Deputy of the Fuehrer in order to take joint action against the offender;

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and then, in the third paragraph, Bormann gives his orders to all Party agencies with respect to reporting to the Gestapo on individuals who criticized the Nazi Party or its institutions. I quote merely the last paragraph.

THE PRESIDENT: Well, I took down what you said in your first sentence, which was that the document showed that he was ordering that a report should be made to the Gestapo for anyone criticizing the Party. Well, that is sufficient, it seems to me, and all that you said after that is irrelevant -- not irrelevant, but cumulative.

LT. LAMBERT: There is, however, one brief point, if I may be permitted, which I should like to emphasize, about the last paragraph, because I think it is helpful to the Prosecution's case against the Leadership Corps of the Nazi Party.

The Tribunal will recall that it asked certain very material questions with respect to whether the Prosecution's evidence involved the rank and file of the Leadership Corps. In the last paragraph of this decree Bormann instructs the Ortsgruppenleiter to report to the Gestapo persons who criticize Nazi Party institutions. Now, an important point with respect to the tie-up between Bormann and the SS. The Tribunal has already received the evidence establishing the criminality of the SS. In this connection, I respectfully request the Tribunal to notice judicially the July 1940 issue of "Das Archiv" our Document 3234-PS. On page 399 of that publication, under date 21 July 1940, it is stated that the Fuehrer promoted Defendant Bormann from Major General to Lieutenant General in the SS. Accordingly, we respectfully submit that Bormann is chargeable and jointly responsible for the criminal activities of the SS.

After the flight of the Defendant Hess to Scotland, in May, 1941, the Defendant Bormann succeeded him as head of the Nazi Party under Hitler, with the title Chief of the Party Chancdry. I request the Tribunal to take judicial notice of a decree of 24 January 1942, 1942 Reichsgesetzblatt, Part I, page 35. In our conception this is an extremely important decree, because by virtue of it the participation of the Party in all legislation and in government appointments and promotions had to be undertaken exclusively by Bormann. He was to take part in the preparation -- and we emphasize that -- as well as the enactment and promulgation of all Reich

laws and enactments; and, further, he had to give his assent to all enactmentsof the Reich Lander, that is, the States, as well as all decrees of the Reich Governors. All communications between State and Party officials had to pass through his hands. And, as a result of this law, we respectfully submit, Bormann is chargeable for every enactment issued in Germany after 24 January 1942, which facilitates and furthers the conspiracy.

It will be helpful, I believe, to point out and to request the Court to take judicial notice of a decree of 29 May 1941, 1941 Reichsgesetzblatt, Part I, page 295. In this decree Hitler ordered that Bormann should take over all powers and all offices formerly held by the Defendant Hess. I request the Tribunal to take judicial notice of another very important decree, that of the Ministerial Council for the Defense of the Reich, 16 November 1942.

THE PRESIDENT: Are these documents set out in the document book?

LT. LAMBERT: Yes, sir.

THE PRESIDENT: You haven't given us the reference.

LT. LAMBERT: That is true, sir. I recall from memory, although I do not have it in my manuscript, that document, that important decree of 24 January 1942 is our document, I believe, 2001-PS.

I now request the Tribunal to take judicial notice of the important decree of the Ministerial Council for the Defense of the Reich, dated 16 November, 1942, 1942 Reichsgesetzblatt, Part I, page 649. Under this decree, all Gauleiter who were under Bormann by virtue of his position, Chief of the Party Chancery, were appointed Reich Defense Commissars and charged with the coordination, supervision, and management of the aggressive Nazi war effort.

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From then on the Party, under Bormann, became the decisive force in planning and conducting the aggressive Nazi war economy.

On 12 April 1943, as is shown in the publication "The Greater German Reichstag", 1943 Edition, page 167, our Document 2981-PS, Bormann was appointed Secretary of the Fuerher, and we submit that this fact testifies to the intimacy and incluence of the Defendant Bormann on the Fuehrer and enlarges his role in, and responsibility for, the conspiracy.

We now come to the important point of Bormann's executive responsibility for the acts of the Volksturm. I request the Tribunal to notice judicially a Fuehrer order of 18 October 1944, which was published in the official Voelkischer Beobachter, 20 October 1944 edition, in which Hitler appointed Bormann political and organizational leader of the Volksturm. This is set forth in our Document 3018-PS. In this decree, Himmler is made the military leader of the Volksturm, but the organizational and political leadership is entrusted to Bormann. The Tribunal will know that the Volksturm was an organization consisting of all German males between 16 and 60. By virtue of Bormann's leadership of the Volksturm, he was instrumental in needlessly prolonging the war, with a consequential destruction of the German and the European war economy, and a loss of life and destruction of property.

We come now to deal with the responsibility of the Defendant Bormann with respect to persecution of the Church. The Defendant Bormann authorized, directed, and participated in measures involving the persecution of the Christian Church. The Tribunal, of course, has heard much in this proceeding concerning the acts of the conspiracy involving the persecution of the Church. We have no desire now to rehash that evidence. We are interested in one thing alone, and that is nailing on the Defendant Bormann his responsibility, his personal, individual responsibility, for the persecution of the Church.

I shall now present the proofs showing the responsibility of Bormann with respect to such persecution of the Christian Churches.

Bormann was among the most relentless enemies of the Christian Church and Christian Clergy in Germany and in German-occupied Europe. I shall refer the Tribunal, without quoting therefrom, to Document D-75, previously

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introduced in evidence as USA Exhibit No. 348, which contains a copy of the secret Bormann decree of 6 June 1941 entitled "The Relationship of National Socialism to Christianity." In this decree, as the Tribunal will well recall, Bormann bluntly declared that National Socialism and Christianity were imcomptible, and he indicated that the ultimate aim of the conspirators was to assure the elimination of Christianity itself.

I next refer the Tribunal, without quotation, to Document 098-PS, previously put in as USA Exhibit No. 350. This is a letter from the Defendant Bormann to the Defendant Rosenberg, dated 22 February 1940, in which Bormann reaffirms the incompatibility of Christianity and National Socialism.

Now, in furtherance of the conspirators' aim to undermine the Christian Churches, Bormann took measures to eliminate the influence of the Christian Church from within the Nazi Party and its formations. I now offer in evidence Document 113-PS, as USA Exhibit 683. This is an order of the Defendant Bormann, dated 27 July 1938, issued as Chief of Staff to the Deputy of the Fuehrer, Hess, which prohibits clergymen from holding Party offices. I shall not take the time of the Tribunal to spread this quotation upon the record. The point of it is, as indicated, that Bormann issued an order forbidding the appointment of clergymen to Party positions.

THE PRESIDENT: Perhaps this would be a good time to break off for ten minutes.

(A recess was taken from 1120 to 1130 hours.)

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LT. LAMBERT: May it please the Tribunal, we are dealing with the efforts of the Defendant Bormann to expel and exorcise from the Party all church and religious influence.

I offer in evidence Document 838-PS, as USA Exhibit 684. I shall not burden the record with extensive quotation from this exhibit, but merely point out that this is a copy of a Bormann decree dated 3 June 1939, which laid it down that followers of Christian Science should be excluded from the Party.

The attention of the Tribunal is next invited to Document 840-PS, previously introduced in evidence as USA Exhibit 355. The Tribunal will recall that this was a Bormann decree of 14 July 1939, referring with approval to an earlier Bormann decree of 9 February 1937 in which the Defendant Bormann ruled that in the future all Party members who entered the clergy or who undertook the study of theology were to be expelled from the Party.

I next offer in evidence Document 107-PS, USA Exhibit 351. This is a circular directive of the Defendant Bormann dated 17 June 1938, addressed to all Reichsleiters and Gauleiters, top leaders of the Leadership Corps of the Nazi Party, transmitting a copy of directions relating to the non-participation of the Reich Labor Service in religious celebrations. The Reich Labor Service, the Tribunal will recall, compulsorily incorporated all Germans within its organization.

DR. BERGOLD (Counsel for Defendant Bormann): The member of the Prosecution just mentioned a number of documents as proof, in which he proved that, as caused by Bormann, members of the Christian religion were excluded from the Party, or affiliated members, and I beg the High Tribunal to tell the member of the Prosecution how and why his activity, that is, the exclusion of Christian members from the Party, can be a war crime. I cannot gather this evidence from the trial brief. The Party is regarded as the conspiracy. Is it a crime to exclude certain people from membership in a criminal organization? Is that considered a crime or why was this exclusion of certain members from the Party considered a crime?

THE PRESIDENT: Counsel will answer you.

LT. LAMBERT: If the Tribunal will willingly accomodate argument at

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this stage, we find that the question --

THE PRESIDENT (Interposing): Only short argument.

LT. LAMBERT: Yes, sir. --- admits of a short, and, as it seems to us, easy answer.

The point we are now trying to prove -- and evidence is abounding on it -- is that Bormann had a hatred and an enmity and took oppositional measures towards the Christian Church. The Party was the repository of political power in Germany. To have power one had to be in the Party or subject to its favor. By his efforts, concerted, continuing and consistent, to exclude clergymen, theological students or any persons sympathetic to the Christian religion, Bormann could not have chosen a clearer method of showing and demonstrating his hatred and his distrust of the Christian religion and those who supported it.

THE PRESIDENT: Counsel for Bormann can present his argument upon this subject at a later stage. The documents appear to the Tribunal to be relevant.

LT. LAMBERT: With the Tribunal's permission, I had just put in Document 107-PS and pointed out that it transmitted directions relating to the non-participation of the Reich Labor Service in religious celebrations. I quote merely the fourth and fifth paragraphs of page 1 of the English translation of Document 107-PS, which reads as follows:

"Every religious practice is forbidden in the Reich Labor Service because it distrubs the comrade-like harmony of all working men and women.

"On this behalf, every participation of the Reich Labor Service in churchly that is religious, arrangements and celebrations is not possible".

The attention of the Tribunal is next invited to Document 070-PS, previously put in as USA Exhibit No. [illegible]. The Tribunal will recall that this was a letter from Bormann's office to Defendant Rosenberg, dated 25 April 1941, in which Bormann declared that he had achieved progressive success in reducing and abolishing religious services in schools, and in replacing Christian prayers with National Socialist mottoes and rituals. In this letter, Bormann also proposed a Nazified morning service in the schools in place of the existing confession and morning service.

In his concerted efforts to undermine and subvert the Christian churches, Bormann authorized, directed, and participated in measures leading to the closin

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reduction, and suppression of theological schools, faculties and institutions. The attention of the Tribunal is invited to Document 116-PS, USA Exhibit No. 685, which I now offer in evidence. This is a letter from the Defendant Bormann to the Defendant Rosenberg, dated 24 January 1939, enclosing, for Rosenberg's cognizance, a copy of Bormann's letter to the Reich Minister for Knowledge and Education. In the enclosed letter, Bormann. informs the Minister as to the Party's position in favor of restricting and suppressing theological faculties. Bormann states that owing to war conditions it had become necessary to reorganize the German high schools, and in view of this situation he requested the Minister to restrict and suppress certain theological faculties.

I now quote from the first paragraph on page 3 of the English translation of Document 116-PS, which reads as follows:

"I would appreciate it very much if you would restrict the theological faculties in so far as they cannot be wholly suppressed in accordance with the above statement. I request in this instance the omission of any expressed declaration to the churches to other places, as well as avoiding of a public announcement of these measures. Complaints and the like must be announced, if they are to be replied to, in the fashion that these measures are being executed in the course of the economic plan of re-organization and that similar things are happening to other faculties. I would appreciate it very much i f professorial chairs thus vacated can be then turned over to the newly created fields of inquiry of the last years, such as national research, archeological studies, etc.

"Martin Bormann".

In our submission, what this document comes to is a request from Bormann, "Please close down the religious faculties and substitute in their place Nazi faculties and university chairs, with the mission of investigating racism, cultism, Nazi archeology," the sort of thing done in the Hohe Schule, which was so clearly demonstrated in the Prosecution's case against the plundering activities of the Einsatzstab Rosenber.

The attention of the Tribunal is next invited to Document 122-PS, previously put in as USA Exhibit No. 362. The Tribunal will recall that 122-PS

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is a letter from the Defendant Bormann to the Defendant Rosenberg, dated 17 April 1939, transmitting to Rosenberg a photostatic copy of the plan of the Reich Minister of Science, Education and Training for the

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combining and dissolving of certain specified theological faculties. In his letter of transmittal, Bormann requested Rosenberg to take "cognizance and prompt action" with respect to the proposed suppression of religious institutions.

I next offer in evidence Document 123-PS, USA Exhibit 686. This is a confidential letter from the Defendant Bormann to the Minister of Education, dated 23 June 1939, in which Bormann sets forth the Party's decision to order the suppression of numerous theological faculties and religious institutions. The Tribunal will note that the letter lists 19 separate religious institutions with respect to which Bormann ordered dissolution or restriction.

After directing the action to be taken by the Minister in connection with the various theological faculties, Bormann stated as follows -- and I quote from the next to last paragraph of page 3 of the English translation of Document 123-PS, which reads as follows:

"In the above I have informed you of the Party's wishes after thorough investigation of the matter with all Party offices. I would be grateful if you would initiate the necessary measures as quickly as possible, in regard to the great political significance for the Gau concerned, which will be the result of every single case of such a combination."

I next offer in evidence, without quotation, Document 131-PS, as USA Exhibit 687. In summary, without quotation therefrom, this is a letter from the Defendant Bormann to the Defendant Rosenberg, dated 12 December 1939, relating to the suppression of seven professorships in the near-by University of Munich.

Now, I deal briefly with the responsibility of Bormann for the confiscation of religious properties and cultural property. Bormann used his paramount power and position to cause the confiscation of religious property and to subject the Christian churches and clergy to a discriminatory legal regime.

I offer in evidence Document 099-PS, USA Exhibit 688. This is a copy of a letter from Bormann to the Reich Minister for Finance, dated 19 January 1940, in which Bormann demanded a great increase in the special war tax

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imposed on the churches. I quote from the first two paragraphs of page 2 of the English translation of Document 099-PS, which read as follows:

"As it has been reported to me, the war fund of the churches has been specified from the 1 November 1939 on, at first for the duration of three months at RM 1,800,000 per month, of which RM 1,000,000 are to be paid by the Evangelical church, and RM 800,000 by the Catholic church per month. The establishment of such a low amount has surprised me. I construe from numerous reports that the political communities have to raise such a large war fund that execution of their tasks, partially very important, for example, in the field of public welfare, is endangered. In consideration of that, a larger quota from the churches appear to be absolutely appropriate."

The question may arise: Of what criminal effect is it to demand larger taxes from churchly institutions? Taking this demand of Bormann's by itself, the prosecution would not suggest that it had criminal effect, but when viewed within the larger frame of Bormann's demonstrated hostility to the Christian Church and his efforts, not merely to circumscribe but to eliminate it, we suggest that this document has probative value in showing Bormann's hostility and his concrete measures to effectuate that hostility against the Christian churches and clergy.

I next refer the Tribunal to Document 089-PS, previously put in as USA Exhibit No. 360. The Tribunal will recall that this was a letter from Bormann to Reichsleiter Amann, dated 8 March 1940, in which Bormann instructed Amann, Reichsleiter of the Press, to make a sharper restriction in paper distribution against religious writings in favor of publications more acceptable to the Nazi ideology.

I next offer in evidence Document 066-PS, as USA Exhibit 689. This is a letter from the Defendant Bormann to the Defendant Rosenberg, dated 24 June 1940, transmitting a draft of a proposed discriminatory church law for Danzig and West Prussia. This decree on the states is a direct abridgement of religious freedom, for in paragraph 1 -- I do not quote but briefly and rapidly summarize -- the approval of the Reich Deputy for Danzig

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and West Prussia is required as a condition for the legal competence of all religious organizations.

Paragraph 3 of the decree suspended all claims of religious organizations and congregations to state or municipal subsidies and prohibited religious organizations from exercising their right of collecting dues without the approval of the Reich Deputy.

In paragraph 5 of the decree, the acquisition of property by religious organizations was made subject to the approval of the Reich Deputy. All credit rights acquired by religious organizations prior to January 1, 1940 were required to be ratified by the Reich Deputy in order to become actionable.

I now offer in evidence Document 1600-PS, USA Exhibit 690. This comprises correspondence of Bormann during 1940, and 1941 relating to the confiscation of religious art treasures. I quote the text of the second letter set forth on page 1 of the English translation of Document 1600-PS, which is a letter from the Defendant Bormann to Dr. Posse of the State Picture Gallery in Dresden, dated 16 January 1941, which reads as follows, and I quote:

"Dear Dr. Posse:

"Enclosed herewith I am sending you the pictures of the altar from the convent in Hohenfurther near Kruman. The convent and its entire property shall be confiscated in the immediate future because of the attitude, hostile towards the state, of its inhabitants. It shall be up to you to decide whether the pictures shall remain in the convent at Hohenfurther or be transferred to the museum at Linz after the latter shall be completed.

"I shall await your decision in the matter.

"Bormann."

The Tribunal may know that in what is described as Hitler's last will and testament, he makes a bequest of all the art treasures he had in the museum at Linz, and from a legal point of view he uses the euphemism "art treasures which I have bought."

This document, on its face, suggests how certain, at least, of the

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properties, the cultural art treasures in the museum at Linz were acquired.

Finally, as the war drew increasing numbers of German youth into the armed forces, the defendant Bormann took measures to exclude and exorcise all religious influence from the troops. The attention of the Tribunal is invited to Document 101-PS, previously put in as USA Exhibit No.361. The Tribunal will recall that this is a letter from the Defendant Bormann dated 17 January 1940, in which Bormann pronounced the Party's opposition to the circulation of religious literature to the members of the German armed forces. In this letter Bormann stated that if the influence of the church upon the troops was to be effectively fought, this could only be done by producing, in the shortest possible time, a large amount of Nazi pamphlets and publications.

I now offer in evidence Document 100-PS, as USA Exhibit No.691. This is a letter from the Defendant Bormann to Rosenberg, dated 18 January 1940, in which Bormann declares that the publication of Nazi literature for army recruits as a counter-measure to the circulation of religious writings was the "most essential demand of the hour."

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I forebear from quoting from that document. Its substance is indicated.

I now request the Tribunal to notice judicially the authoritative Nazi publication entitled "Decree of the Deputy of the Fuehrer", edition of 1937, and I quote from page 235 of this Volume, the pertinent and important decree issued by the Defendant Bormann to the Commissioner of the Party Directorate, dated 7 January, 1936, the English version of which is set forth in the English translation of our Document 2346-PS. In this one sentence Bormann aims and directs the terror of the Gestapo against dissident church members, who crossed the conspirators, and I quote:

"If parish priests or other subordinate Roman Catholic leaders adopt an attitude of hostility towards State or Party, it shall be reported to the Secret State Police (Gestapo) through official channels. (Signed) Bormann."

With leave of the Tribunal, I come now to deal with the responsibility of the Defendant Bormann for the persecution of the Jews.

Again, the Prosecution seeks not to rehash the copious evidence in the record on the persecution of the Jews, but rather to limit itself to evidence fastened on the Defendant Bormann, his individual responsibility for the persecution of the Jews. Bormann shares the deep guilt of the Nazi conspirators for their odious program in persecution of the Jews. It was the Defendant Bormann, we would note, who was charged by Hitler with the transmission and implementation of the Fuehrer's orders for the liquidation of the so-called Jewish problem.

Following the Party-planned and Party-directed program of 8 and 9 November, 1938, in the course of which a large number of Jews were killed and harmed and Jewish shops pillaged and wrecked, and synagogues set ablaze all over the Reich; the Defendant Bormann, on orders from Hitler, instructed the Defendant Goering to proceed to the "final settlement of the Jewish question" in Germany. That is Hitler to Bormann, Bormann issuing the instructions to Goering.

The attention of the Tribunal is invited to Document 1816-PS, previously put in as U.S.A. Exhibit 261. The Tribunal is well acquainted with this document. It has frequently been referred to. The Tribunal knows the Document 1816-PS is the minutes of a conference on the Jewish question, held

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under the direction of Goering on the 12th of November 1938. I quote only the first sentence of Document 1816-PS, which fastens the responsibility upon Bormann and which reads asfollows:

"Goering: (speaking) Today's meeting is of a decisive nature. I have received a letter written on the Fuehrer's orders by the Chief of Staff of the Fuehrer's Deputy, Bormann, requesting that the Jewish question be now, once and for all, coordinated and solved one way or another."

The Tribunal is well aware of the proposals, the discussions and the actions taken in this conference that constituted the so-called "settlement of the Jewish question."

As a result of this conference, a series of anti-Jewish decrees and measures were issued and adopted by the Nazi conspirators. I offer in evidence Document 069-PS, U.S.A. Exhibit 589. This is a decree of Bormann, dated 17 January, 1939, in which Bormann demands compliance with the new anti-Jewish regulations, stemming and flowing from the Goering conference just referred to, under which Jews were denied access to housing, travel, and other facilities of ordinary life. I quote the Bormann order, which appears at page one of the English translation of Document 069-PS, which reads as follows:

"After a report of General Field Marshal Goering, the Fuehrer has made some basic decisions regarding the Jewish question. The decisions are brought to your attention in the enclosure. Strict compliance with these directives is requested. (Signed) Bormann."

In the interests of expediting the proceedings, I shall resist the temptation to quote extensively from the enclosed order in Bormann's letter of transmittal. In effect, the crux of it is that Jews are denied sleeping compartments in trains, the right to give their trade to certain hotels in Berlin, Munich, Nurnberg, Augsburg and the like. They are banned and excluded from swimming pools, certain public squares, resort towns, mineral baths and the like. The stigma and the degradation and inconvenience in the ordinary affairs of life promoted by this decree is plain on its face.

I next request the Tribunal to notice judicially the decree of 12 November, 1938, 1938 Reichsgesetzblatt, Part I, page 1709, well familiar to this Tribunal, for it was the decree which excluded Jews from economic life. This

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decree forbade Jews to operate retail shops and it was a decree which went far to eliminate the Jews from German economic life.

Now, Bormann also acted through other State agencies to wipe out the economic existence of large sections of the Jewish population. In that respect I request the Tribunal to notice judicially the authoritative Nazi publication entitled, "Decree of the Deputy of the Fuehrer", edition of 1937, our Document 3240-PS. At page 383 of this publication there appears a decree of the Defendant Bormann, dated 8 January, 1937, reproducing an order of the Defendant Frick, issued at Bormann's instigation, denying any financial assistance to government employees who employed the services of Jewish doctors, lawyers, pharmacists, morticians and other professional classes. I shall forbear from quoting the text of that decree. Its substance is as given.

Bormann decreed, quoting a Frick decree, issued at Bormann's instigation, government employees who employ the services of Jewish professional classes will get no reimbursement or compensation. The decree is signed by Bormann.

After the outbreak of war, the anti-Jewish measures increased in intensity and brutality. If I may intrude, if it please the Tribunal, for the aid of the translators may I state I am now discussing from page 25 of the manuscript.

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After the outbreak of the war, the anti-Jewish measures increased in intensity and brutality. Thus, the Defendant Bormann participated in the arrangements for the deportationto Poland of 60,000 Jewish inhabitants of Vienna, in cooperation with the SS and the Gestapo. I have no doubt that the Tribunal received this document in connection with the case against von Schirach. It is our Document 1950-PS and on its face it points out and Lammer says -- Bormann has informed me and von Schirach of your proposal to bring about the deportation. I limit myself to pointing out that single, solitary fact.

When Bormann succeeded the Defendant Hess as Chief of the Party Chancery, he used his vast powers in such a way that he was a prime mover in the program of starvation, degradation, spolioation and extermination of the Jews, and we use those terms advisedly, subject to the draconian rule of the conspirators.

I request the Tribunal to notice judicially, the decree of 31 May, 1941, Reichsgesetzblatt, Part I, page 297, which was signed by the Defendant Bormann and which extended the discriminatory Nurnberg laws to the annexted Eastern Territories. I request the Tribunal to notice judicially the Eleventh Ordinance under the Reich Citizen Law of 25 November, 1941, Reichsgesetzblatt, Part I, page 722, signed by the Defendant Bormann, which ordered the confiscation of the property of all Jews who had left Germany voluntarily or who had been deported.

I request the Tribunal to notice judicially an order of Bormann's dated 3 October, 1941.

THE PRESIDENT: You have not given us the PS numbers of either the 31 of May, 1941 or the one after that.

LT. LAMBERT: I confess delinquency of duty there. These decrees, in translated form, are all in the Document Book. I do not have, in my manuscript, their PS citation. However, in the brief now filed with, or soon to be delivered to the Tribunal, these decrees are given with their PS numbers opposite.

THE PRESIDENT: C-354 PS and 3241 PS.

LT. LAMBERT: That is very good of you sir, thank you.

I request the Tribunal to notice judicially an order of the Defendant

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Bormann, dated 3 October, 1941, Volume II of the publication "Decrees, Orders, Announcements", page 147. This is our document, I rejoice to be able to say, 3243-PS, which announces a Ministry of Foods decree, issued at Bormann's instigation, which deprived Jews of many essential food items, all special sickness and pregnancy rations for expectant mothers and ordering confiscation of food parcels sent to the beleaguered Jews from the sympathetic outside world.

I now request the Tribunal to notice judicially the Thirteenth Ordinance under the Reich Citizenship Law of 1 July, 1943, 1943 Reichsgesetzblatt, Part I, page 372, signed by the Defendant Bormann, under which all Jews were completely withdrawn from the protection of the ordinary courts and handed over to the exclusive jurisdiction of Himmler's police. This is our Document 1422-PS.

With the leave of the Tribunal, we respectfully request the opportunity to underline the significance of that decree. In a society which desires to live under the rule of law men are judged only after an appearance before and adjudication by a Court of law. The effect of this decree was to remove all alleged Jewish defendants from the jurisdiction of the Courts of law and to turn them over to the police. The police were to have jurisdiction over alleged Jewish offenders, not the Tribunals of law.

The result of this law was soon forthcoming, a result for which the Defendant Bormann shares the responsibility. On July 3, 1943 Himmler issued a decree, our Document 3085-PS, which I respectfully request the Tribunal take judicial notice of -- 1943 Ministry of Interior Gazette, page 1085, which charged the Himmler police and Gestapo with the execution of the foregoing ordinance closing the courts to the Jews and entrusting them to Himmler's police.

Finally, with respect to Bormann's responsibility for the persecution of the Jews, I request the Tribunal to notice judicially a decree of Bormann's dated 9 October, 1942, Volume II, Decrees, Regulations and Announcements, page 131-132, which declared that the problem of eliminating forever the millions of Jews from Greater German territory could no longer be solved by emigration merely, but only by the appl ication of ruthless force in special camps in the East.

THE TRIBUNAL (Mr. Biddle): What are you referring to there?

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LT. LAMBERT: That, sir, is Document 3244-PS.

We had desired, at the outset, to quote this decree in full as an irrefutable answer to a question put by defense counsel some days ago in cross-examination, as to whether or not the anti-semitic policies of the conspirators were the policies merely of certain demented or deviational members of the conspiracy itself. Time does not permit the full quotation of this decree, but with the indulgence of the Tribunal, if I may offer the essence of this decree in a brief sentence or two.

Bormann starts out, in this decree, by saying -- recently rumors have been stimulated throughout the Reich as to violent things we are doing with respect to the Jews. These rumors are being brought back to the Reich by our returning soldiers, who have eye-witnessed them in the East. If we are to combat the effect of these rumors, then our attitude, as I now outline it to you officially, must be communicated to the German civil population. Bormann then reviews what he terms the two thousand years old struggle against Judaism and he divides the Party's program into two spheres: the first the effort of the Party and the conspirators to excommunicate and expel the Jews from the economic and social life of Germany. Then he adds -- when we started rolling with our war, this measure by itself was not enough; we had to resort to forced emigration and set up our camps in the East. He then goes on to say

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that as our armies advanced in the East, we have overrun the lands to which we have sent the Jews and now these emigration measures, our second proposal, are no longer sufficient.

Then he comes to the proposal, the considered proposal of himself and the Party Chancery--we must transport these Jews eastward and place them in special camps for forced labor, and I quote now merely the last sentence of Bormann's decree:

"It lies in the very nature of the matter that these problems which in part are very difficult, can be solved only with ruthless severity in the interest of the final security of our people. Bormann."

With leave of the Tribunal, I come now to deal --

THE PRESIDENT: It is signed by Bormann? It does not appear to be. I thought you said, "Bormann."

LT. LAMBERT: That is what I said, true, sir.

If the Tribunal will refer, as it has, to Document 3244-PS, it is clear that this is a Bormann decree, issued from the Office of the Deputy of the Fuehrer. It is true, in this translation of the decree Bormann's name is not affixed but in the original volume it is very clear that this is a decree of Bormann's, issued from the Party Chancery. The Prosecution so assures the Tribunal and accepts responsibility for that submission.

With leave of the Tribunal, I now come to deal with the responsibility of the Defendant Bormann for overt acts, for the commission and planning of a wide variety of crimes in furtherance of the conspiracy. The Tribunal knows the powers that Bormann possessed; that has been put in -- vast powers. Our point is that he issued these powers, buttressed by his position as Secretary to the Fuehrer, attending all the conferences at the Fuehrer's headquarters; that he used these vast powers in the planning, the authorization and the participation in overt acts denominated war crimes, crimes against humanity.

The attention of the Tribunal is invited to Document L-221, previously put in as U.S.A. Exhibit 317. The Tribunal knows that this document is a comprehensive report, dated 16 July, 1941, made by the Defendant Bormann just three weeks after the invasion of the territory of the Soviet Union by Germany.

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It is a report of a twenty-hour conference at Hitler's field headquarters with the Defendants Goering, Rosenberg, Keitel, and with Reich Minister Lammers. This conference resulted in the adoption of detailed plans and directives for the enslavement, depopulation, Germanization and annexation of extensive territories in the Soviet Union and other countries of Eastern Europe.

In his report on this conference, set forth in Document L-221, Bormann included numerous proposals of his own for the effective execution of these plans.

Later the Defendant Bormann took a prominent part in implementing the conspiratorial program. The attention of the Tribunal is invited to Document 072-PS, previously put in as U.S.A. Exhibit 357. The Tribunal will recall that this is a letter from the Defendant Bormann to the Defendant Rosenberg, dated 19 April, 1941, dealing with the confiscation of cultural property in the East. I quote merely the last two paragraphs of the English translation of Document 072-PS, which reads as follows:

"The Fuehrer emphasized that in the Balkans the use of your experts" (I parenthetically insert that is the experts of the Einsatzstab Rosenberg organization, the plundering organization) -- "the use of your experts would not be necessary, since there were no art objects to be confiscated. In Belgrade only the collection of Prince Paul existed, which would be returned to him completely. The remaining material of the lodges, etc. would be seized by the organs of Gruppenfuehrer Heydrich.

"The libraries and art objects of the monasteries, confiscated in the Reich, were to remain for the time being in these monasteries, insofar as the Gauleiters had not determined otherwise. After the war, a careful examination of the stock could be undertaken. Under no circumstances, however, should a centralization of all the libraries be undertaken; the Fuehrer has repeatedly rejected this suggestion. Signed Bormann."

I now offer in evidence Document 061-PS, U.S.A. Exhibit 692. This is a secret letter from Bormann, dated 11 January, 1944, in which Bormann discloses and we stress this, very important as it seems to us, the existence of large-scale operations to drain off commodities from German-occupied Europe for

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delivery to the bombed-out population in Germany. The Tribunal knows that the Hague Regulations and the laws of war permit the requisitioning of goods and services only for the use of the army of occupation and for the needs of the administration of the area occupied. This proposal and this action represents the requisitioning of materials in occupied areas for the use of the folk at home, of the homefront.

I now quote the first two paragraphs of the English translation, Bormann's letter of 11 January, 1944, set forth in the English translation of our Document 061-PS, which reads as follows:

"Since the supply of textiles and household goods for the bombed populations is becoming increasingly difficult, the proposition was made repeatedly to affect purchases in the occupied territories in greater proportions. Various district leaders (Gauleiter) proposed to let these purchases be handled by suitable private merchants who know these districts and have corresponding connections.

"I have brought these proposals to the attention of the National Economic Minister and am quoting his reply of 16 December 1943 on account of its fundamental importance: 'I consider it a specially important task to make use of the economic power of the occupied territories for the Reich. You are aware of the fact that since the occupation of the Western territories the buying cut of these countries has been affected in the greatest proportion. Raw materials, semi-finished products and stocks of finished goods have been rolling to Germany, for many months, valuable machines were sent to our armaments industry. Everything was done at that time to increase our armament potentialities. Later on the shipments of these important economic goods were replaced by the so-called distribution of orders from industry to industry.'"

I shall end the quotation there. The rest is not material to the point.

In the course of the war -- and this is of utmost importance, in the view of the prosecution --

THE PRESIDENT: Is it clear that was confiscation?

LT. LAMBERT: It was not suggested, sir, that this was confiscation. Our point was that that the Hague Regulations allow requisitions in return for payment only for the needs of the army of occupation and for the needs of administration of the occupied area. This represents, as it seems to us, a requisitioning program for the need of the home front. It was on that point that we offer it.

We come now to what the prosecution considers a most important point against the defendant Bormann. In the course of the war Bormann issued a series of orders establishing Party jurisdiction over the treatment of prisoners of war, especially when employed as forced labor.

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The Tribunal knows that under the Geneva Convention of 1929 relating to prisoners of war, prisoners of war are the captives, not of the troops who take them or even of the army which captures them, but of the captive power; and it is the captive power which has jurisdiction over and responsibility for them.

By the series of decrees now to be put in, Bormann asserts and establishes Nazi Party jurisdiction over Allied prisoners of war. In the exercise of that Party jurisdiction he called for excessively harsh and brutal treatment of Allied prisoners of war.

I now offer in evidence Document 232-PS as USA Exhibit 693. This is a decree of the defendant Bormann, dated 13 September 1944, addressed, will the Tribunal please note, to all Reichsleiter, Gauleiter, and Kreisleither, and leaders of the Nazi affiliated organizations -- numerous levels, that is, of the Leadership Corps of the Nazi Party -- a decree dstablishing Nazi Party jurisdiction over the use of prisoners of war for forced labor.

I quote the first three paragraphs of Bormann's order set forth on Page 1 of the English translation of Document 232-PS, which reads as follows:

"The regulations, valid until now, on the treatment of prisoners of war, and the tasks of the guard units are no longer justified in view of the demands of the total war effort."

The prosecution would intrude to ask the question, since when do the exigencies of the war effort repeal or modify the provisions of international law? End of our intrusion.

"Therefore, the Supreme Command, (OKW) of the Armed Forces, on my suggestion, issued the regulation, a copy of which is enclosed.

"The following is cited for its contents:

"1. The understanding exists between the Chief of the Supreme Command of the Armed Forces (OKW) and myself, that the cooperation of the party in the commitment of prisoners of war is inevitable. Therefore, the officers, assigned to the prisoner of war system, have been instructed, to cooperate most closely with the bearers of sovereignty (Hoheitstraeger). The commandants of the prisoner of war camps have to detail immediately liaison officers to the Kreisleiters.

"Thus the opportunity will be afforded the Hoheitstraegers to alleviate

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existing difficulties locally, to exercise influence on the behaviour of the guard units" -- and this is the point we underline -- "and to better assimilate the commitment of the prisoners of war to the political and economic demands."

Will the Tribunal permit me to observe that on the face of this order it is addressed to Reichsleiter, Gauleiter, and Kreisleiters, addressed to these officials of the Leadership Corps, and in the temrs of the order itslef Hoheitstraeger are referred to as cooperating measures in this scheme.

THE PRESIDENT: Will you go a little bit more slowly?

LT. LAMBERT: Certainly, sir.

The Tribunal has graciously given me an opportunity to observe that this decree is addressed to Reichsletier, Gauleiter, Kreisleiter, and to the leaders of the affiliated and controlled Nazi organizations. As the Tribunal knows, within the Leadership Corps of the Nazi Party, the Kreisleiter is a pretty low level. That is a county leader. On the face of the decree the cooperation of the Hoheitstraeger is directed, and the Tribunal knows under the evidence presented against the Leadership Corps that Hoheitstraeger range all the way from the Reichsleiter on the top, down to and including the 500,000 or so Blockleiters implicated.

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I next offer in evidence Document D-163-PS, as U.S.A. Exhibit 694. This is a letter of the Defendant Bormann, dated 5 November 1941 —

THE PRESIDENT: D-163?

LT. LAMBERT: That is D-163 -- addressed, the Tribunal will please note, to all Reichsleiter, Gauleiter, and Kreisleiter, the last just mere county leaders, transmitting to these officials of the Leadership Corps of the Nazi Party the instructions of the Reich Minister of the Interior prohibiting decent burials with religious ceremonies for Russian prisoners of war. I quote the pertinent portions of these instructions, beginning with the next to the last sentence of page 1 of the English translation of D-163, which reads as follows:

"To save costs, Service Departments of the army will generally be contacted regarding transport of corpses (furnishing of vehicles) whenever possible. No coffins will be indented for the transfer and burial. The body will be completely enveloped with strong paper (if possible, oil, tar, asphalte paper) or other suitable material. Transfer and burial is to be carried out unobtrusively. If a number of corpses have to be disposed of the burial will be carried out in a communal grave. In this case, the bodies will be buried side by side (but not on top of each other) and in accordance with the local custom regarding depth of graves. Where a graveyard is the place of burial a distant part will be chosen. "No" — we repeat — "No burial ceremony or decorations of graves will be allowed."

I now offer in evidence Document 228-PS, USA Exhibit 695. This is a Bormann circular, dated 25 November 1943, issued from the headquarters of the Fuehrer, demanding harsher treatment of prisoners of war and the increased exploitation of their manpower. I now quote the Bormann circular which is set forth on page 1 of the English translation of Document 228-PS, which reads as follows:

"Individual Gau-administrations often refer in reports to a too indulgent treatment of PW's on the part of the guard personnel. In many places, according to these reports, the guarding authorities have even developed into protectors and caretakers of the PW's.

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"I informed the Supreme Command of the Armed Forces of these reports, with the comment that the productive German labor population absolutely cannot understand it, if, in a time in which the German people is fighting for existence or non-existence, PW's - hence our enemies - are leading a better life than the German working man, and that it is an urgent duty of every German who has to do with PW's, to bring about a complete utilization of their manpower.

"The Chief of PW affairs in the Supreme Command of the Armed Forces has now given out the unequivocal order, attached hereto in copy form, to the commanders of PW's in the military districts. I request that this order be brought orally to the attention of all party office holders in an appropriate manner.

"In case that in the future complaints about unsuitable treatment of PW's still come to light, they are to be immediately communicated to the commanders of the PW's with a reference to the attached order."

The Tribunal will note, of course, on the face of the decree Bormann instructs that these orders be communicated orally to all party officials, and that surely must include the members of the Leadership Corps of the Nazi Party.

THE PRESIDENT: Speaking for myself, I don't see anything particularly wrong in that communication.

LT. LAMBERT: On that point, sir, we submit that if you take a document which says, "We wish to utilize all the labor power of PW's in our control possible, and to get this result by suitable means,"probably it tends to appear unexceptional. But viewing this document in relation to the other evidence in and to be presented, which show a concerted and settled policy by Bormann and his conspirators to —

THE PRESIDENT: Well, it isn't necessary to argue it.

LT. LAMBERT: Yes, sir. Thank you, sir.

The attention of the Tribunal is invited to Document 656-PS, previously put in as USA Exhibit 339. The Tribunal will recall that this is a secret Bormann circular transmitting instructions of the Nazi High Command of 29 January 1943, providing for the enforcement of labor demands on Allied

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prisoners of war through the use of weapons and corporal punishment. I quote a brief excerpt from these instructions, beginning with the third sentence of the third numbered paragraph of page 2 of the English translation of Document 656-PS, which reads as follows, and I quote:

"Should the prisoners of war not fulfill his order, then he has "—that is the guard unit, the guard personnel—"then he has in the case of the most pressing need and danger, the right to force obedience with the weapon if he has no other means. He can use the weapon as much as is necessary to attain his goal. If the assistant guard is not armed, then he is authorized in forcing obedience by other applicable means."

The Tribunal knows that under the Geneva Prisoners of War Convention of 1929 when prisoners of war proved derelict and refuse to carry out proper orders of the captive power or its forces, such prisoners of war are subject to court martial and military proceedings as if they were serving under their own forces. Here is a decree which on its face authorizes or attempts to authorize guard personnel to use the rifle or other suitable means of violence, and of course your Lordship will understand it was this type of document we had in mind when we suggested that the decree of Bormann should be considered in the light of his other orders relating to the treatment of prisoners of war.

THE PRESIDENT: The Tribunal will adjourn now.

(Whereupon at 1245 hours the hearing of the Tribunal adjourned to reconvene at 1400 hours).

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Official transcript of the International Military Tribunal, in the matter of: The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and Union of Soviet Socialist Republic, against Hermann Wilhelm Goering, et al, Defendants, sitting at Nurnberg, Germany, on 16 January 1946, 1400-1720, Lord Justice Lawrence, presiding.

LT. THOMAS LAMBERT: The Tribunal will recall that at the close of the morning session I had been putting in a series of decrees of the Defendant Bormann in which he called for increasingly harsh and severe treatment of Allied prisoners of war. These instruction issued by the Defendant Bormann cluminated in his decree of 30 September 1944. The attention of the Tribunal is invited to Document 058-PS, previously put in as U.S.A.Exhibit 456. The Tribunal will recall that this decree of the Defendant Bormann removed jurisdiction over all prisoners of war from the Nazi high command and transferred it to Himmler. The decree also provided that all PW capt commanders should be under the orders of the local SS commanders. By virtue of this order of the Defendant Bormann, Hitler was enabled to proceed with his program of inhumane treatment and even extermination of Allied prisoners of war.

We now proceed to put in what the prosecution conceives to be extremely important and extremely incriminating evidence against Bormann and the co-conspirators, that is, the responsibility of the Defendant Bormann for the organized lynching of Allied airman. I offer in evidence Document 062-PS, U.S.A. Exhibit 669, and I very respectfully request the Tribunal turn to this document. On its face it is an order dated 13 March 1940 from the Defendant Hess addressed to Reichsleiters, Gauleiters, and other Nazi officials and organization. In this order these Party officials are instructed by the Defendant Hess to instruct all German civil population to arrest or liquidate all bailed-out Allied fliers. I call the attention of the Tribunal to the third paragraph on the first page of the English translation of Document 062-PS. In the third paragraph Hess directs that these instructions, which I shall soon read, are to be passed out only orally to all -- will the Tribunal please mark that -- to all district leaders of kreisleiters, ortsgruppenleiter, cell leaders, and even the block leaders; that is to say, this order

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must be passed out by all the officials of the Leadership Corps in the Hoheitstraeger, ranging from reichsleiter down to and including the block-leiter.

Now, turn the page of 062-PS, and the Tribunal will find the instructions which Hess demanded be disseminated by the Leadership Corps orally, the lynching of Allied fliers. These directions are headed up, "About behaviour in case of landings of enemy planes or parachutists." The first three instructions I omit as not material to the basic point now being made. Instruction four reads, and I quote:

"Likewise enemy parachutists are immediately to be arrested or liquidated. It speaks for itself and requires no further commend from the prosecution.

Now, in order to insure the success of this scheme ordered by the Defendant Hess, Bormann issued a secret letter dated 30 May 1944 to the officials -- if the Tribunal will please mark -- of the Leadership Corps of the Nazi Party, prohibiting any police measures or criminal proceedings against German civilians who had lynched or murdered Allied airmen. This document, our 057-PS, has been previously put in and received by the Tribunal in connection with the prosecution's case against the alleged criminal organization, the Leadership Corps of the Nazi Party.

Now, may it please the Tribunal, that such lynchings organized, authorized and consented to by Defendant Bormann actually took place has since been fully and indisputably demonstrated by trials by American Military Commissions which have resulted in the conviction of German civilians for the murder of Allied fliers. I request the Tribunal to take judicial notice of Military Commission Order No. 2, Headquarters 15th U. S. Army, dated 23 June 1945. This order is our Document 2559-PS. This order imposed the sentence of death upon a German civilian for violation of the laws and usages of war in murdering an American airman who bailed out and landed without any means of defense.

The Tribunal will note that order of the American Military Commission dated 15 August 1944, and Bormann's order was dated May 1944.

I request the Tribunal to notice judicially Military Commission Order No. 5, Headquarters 3rd U. S. Army and Eastern Military District, dated

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18 October 1945. This order is set forth in Document 2560-PS. This order imposed a sentence of death upon a German national for violating the laws and usages of war by murdering on or about 12 December 1944 an American airman who landed in German territory.

We coult cite further orders of American and other Allied Military Commissions sentencing German civilians to death for the lynching and murdering of Allied airmen who had bailed out and landed without means of defense on German territory. We think our point is made by taking the time of the Tribunal to cite those two orders.

As previously mentioned in the trial address, on 20 October 1944, when Nazi defeat in the war had become certain, Bormann assumed political and organizational command of the newly-formed Volkssturm, the Peoples' Army. By virtue of organizing the continued resistance by the Volkssturm, Bormann bears some responsibility for the resistance which prolonged the aggressive war four months.

I come now, if it please the Tribunal, to present the proofs showin g that Bormann authorized, directed, and participated in a wide variety of crimes against humanity in aid of the conspiracy. Bormann played an important role in the administration of the forced labor program. I offer in ecidence Document D-226, U.S.A. Exhibit 697. This is a Speer circular, a circular of the Defendant Speer, of 10 November 1944, transmitting Himmler's instructions that the Party and the Gestapo should cooperate in securing a larger productivity from the millions of impressed foreign workers in Germany. I quote the second numbered paragraph of page two of the English translation of Document D-226, which reads as follows:

"All men and women of the NSDAP, its subsidiaries and affiliated bodies in the works (meaning of course factories), will, in accoordance with instructions from the Kreisleiters, be warned by their local group leaders (we intrude to say that means ortsgruppenleiters), and be put under obligation to play their part in keeping foreigners under the most careful observation. They will report the least suspicion to the works foreman, which he will pass on to the Defense Deputy, or, where such a deputy has not been appointed, to

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the Police Department concerned, whilst at the same time reporting to the works manager and the local group leader (the ortsgruppenleiter) to exert untiringly and continuously their influence on foreigners, both in word and deed in regard to the certainty of German victory and the German will to resist, thus producing a further increase of output in the works. Party members, both men and women, and members of Party organizations and affiliated bodies, must be expected more than ever before to conduct themselves in an exemplary manner."

Now, in a word, the significance of that decree. It is true it is a circular of Speers' reciting an arrangement between himself and Himmler, but the effect of the arrangement is to impose the onus to continue the task of supplying foreign workers on Party members, a party which, as the Tribunal knows, Bormann headed up as executive chief.

Under the decree of 24 January 1942 no such directive could have been issued without the participation of Bormann both in its preparation and its enactment.

I now offer in evidence Document 025-PS as U.S.A. Exhibit 698. This is a conference report dated 4 September 1942 which states that the recruitment, importation, mobilization, and processing of 500,000 female domestic workers from the East would be handled exclusively by Sauckel, the Defendant, Himmler, and the Defendant Bormann. I quote the first two sentences of the third paragraph of the English translation of Document 025-PS, which reads as follow

"The Fuehrer has ordered the immediate importation of 400,000 to 500,000 female domestic Eastern workers from the Ukraine between the ages of 15 and 35, and has charged the General Deputy for Labor Mobilization with the execution of this action which is to end in about three months. In connection with this -- this is also approved by Reichsleiter Bormann, the illegal bringing of female housekeepers into the Reich by members of the armed forces, or various other agencies, is to be allowed subsequently, and furthermore, irrespective of the official recruiting, is not to be prevented."

And I now quote from the first sentence of the last paragraph on page four of the English translation of 025-PS, and this is the part that hooks in the Defendant Bormann with the scheme:

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"Generally one gathered from this conference that the questions concerning the recruitment and mobilization as well as the treatment of the female domestic workers from the East are being handled by the General Deputy for Labor Mobilization, the Reichsfuehrer SS, and the Chief of the German police and the Party Chancery, and that the Reichs's ministry for the occupied territories of the East is not considered as competent or only as half competent."

The Party Chancery is here mentioned in terms, and Bormann was the leader of the Party Chancery, as the Tribunal knows.

Now, the Defendant imposed his will on the administration of the German-occupied areas and insisted on the ruthless exploitation of the inhabitants of the occupied East. The attention of the Tribunal is respectfully invited to Document R-36, previously put in as U.S.A. Exhibit 344. The Tribunal is well acquainted with this document, for it has been referred to several times in these proceedings, and knows that this is an official memorandum of the Ministry for Eastern Territories dated 19 August 1942, which states that the repressive views of the Defendant Borrman with respect tothe inhabitants of the Eastern areas actually determined German occupational policies in the East. The Tribunal recalls the now almost notorious quotation from this document R-36, which purports to paraphrase and constitute the essence of Bormann's views with respect to German occupational policy in the East. So often has it been quoted that I shall resist the temptation to repeat it, but in essence it comes to this. Bormann in effect says:

"The Slavs are to work for us. In so far as we don't need them, they may die. They should not receive the benefits of the German public health system. We do not care about their fertility. They may practice abortion and use contraceptives; the more the better. We don't want them educated; it is enough if they can count up to one hundred. Such stooges will be the more useful to us. Religion we leave to them as a diversion. As to food, they wont get any more than is absolutely necessary. We are the masters; we come first."

The Document R-36 -- we respectfully submit this as an accurate paraphrase and summary of the text of that document.

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The attention of the Tribunal is next respectfully invited to Document 654-PS, previously put in as U.S.A. Exhibit No. 218. The Tribunal will recall that this is a conference report dated 18 November 1942 embodying an agreement between the Minister of Justice and Himmler entered into by Bormann's suggestion under which all inhabitants of the Eastern occupied areas are subjected to a brutal police regime in the place of an organized, judicious system. And the agreement refers all disputes between the Party Reich Minister for Justice and Himmler to Bormann for settlement.

Now, because Bormann issued these and related orders, we submit that he bears a large share of the responsibility for the discriminatory treatment and the extermination of great numbers of persons in the German-occupied areas of the East.

With the indulgence of the Tribunal, I put the substance of what I have been privileged to present in a few words. We have shown that Bormann, only forty-five years old at the time of German's defeat, contributed his entire adult life to the furtherance of the conspiracy. His crucial contribution to the conspiracy lay in his direction of the vast powers of the Nazi Party in advancing the multiple objectives of the conspiracy. First, as Chief of Staff to the Defendant Hess and then as leader in his own name of the Party Chancery subject only to Hitler's supreme authority. These two positions he applied, and directed the total power of the Party and allegiances to carry into execution the plans of the conspirators. He used his great powers to persecute the Christian church and clergy, and was an unrepentant foe of the fundamentals of Christianity with which he warred.

He actively authorized and participated in measures designed to persecute the Jews, and his was a strong hand in pressing down the crown of thorns of misery on the brow of the Jewish people both in Germany and in German-occupied Europe.

As Chief of the Party Chancery, and Secretary to the Fuehrer, Bormann authorized, directed, and participated in a wide variety of war crimes and crimes against humanity, including without limitation the lynching of Allied airmen, the enslavement and inhuman treatment of the inhabitants of

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German-occupied Europe, the cruelty of impressed labor, the breaking up of homes contrary to the clear provisions of the Hague regulations, and the planned persecution and extermination of the civil population of Eastern Europe.

May it please this Tribunal, every school boy knows that Hitler was an evil man. The point we respectfully emphasize is that without chieftains like Bormann, Hitler would never have been able to seize and consolidate total power in Germany, but he would have been left to walk the wilderness alone.

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He was in truth an evil accomplice of Hitler, and although he may remain a fugitive from the justice of this Tribunal, with an empty chair in the dock, Bormann cannot escape responsibility for his illegal conduct.

We close with what seems to us an extremely important point. Bormann may not be here, but under the last sentence of Article VI of the Charter every Defendant shown in our evidence, or Defendant in this dock shown in our evidence to have been a leader and organizer and inciter and accomplice of this conspiracy is responsible for the acts of all persons in furtherance of the general scope of the conspiracy. And resting squarely on this proposition we submit, even though Bormann is not here, every man in the dock shares responsibility for his criminal acts, and with this we close. The name of Bormann is not written in water, but will be remembered as long as the record of your Honors' Tribunal is preserved.

I now have the privilege of introducing Lt. Henry Atherton, who will present the case for the Prosecution against the individual Defendant Seyss-Inquart.

LT. HENRY ATHERTON: May it please the Tribunal, the Prosecution has prepared a trial brief for the convenience of the Tribunal, showing the individual responsibility of the Defendant Seyss-Inquart. Copies of this brief are now being handed to the Tribunal. At the same time the document books which bear the letters KK and which contain translation of the evidence referred to in the brief, or to be introduced in evidence at this time, are also being handed to the Tribunal. At the outset I wish to make clear my intention to deal at this time only with the individual responsibility of the Defendant Seyss-Inquart for the crimes charged in Counts I and II of the Indictment. Evidence to show his guilt as charged under Counts III and IV of the Indictment, that is, evidence specifically directed thereunto is

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to be introduced later by the Prosecutors of the French Republic and the Soviet Union.

Seyss-Inquart has agreed that he held the following positions in State and Party, and I am referring now to document 2910-PS, which is USA Exhibit No. 17. He was State Councillor of Austria from May, 1937, to 12 February, 1938. He was Minister of Interior and Security of Austria, 16 February, 1938, to 11 March, 1938, Chancellor of Austria, 11 March to 15 March, 1938, Reich Governor of Austria 15 March, 1938, to 1 May, 1939, Reich Minister without Portfolio from 1 May, 1939, until September of that year, Member of the Reich Cabinet from 1 May, 1939, until the end of the war, Chief of the Civil Administration of South Poland from the early part of September, 1939, until 12 October, 1939, Deputy Governor General of Poland under the Defendant Frank from 12 October, 1939, until May, 1940, and finally Reich Commissar of the Occupied Territories of the Netherlands from 29 May, 1940, until the end of the war. He has also agreed that he became a member of the National Socialist Party 13 March, 1938, and that he was appointed a General in the SS 15 March, 1938.

Now this list of positions which Seyss-Inquart has agreed that he held, if the Tribunal please, shows the places which he held in the Nazi common plan, or conspiracy. It shows his steady rise to greater influence and power, and especially it emphasizes his particular talent, his skill in effecting the enslavement of the smaller nations surrounding Germany for the benefit of what he called the Greater German Reich.

Now the Defendant Seyss-Inquart first became a part of the Nazi conspiracy in connection with the Nazi assault on Austria. As has been shown by Mr. Alderman the Nazis implemented their diplomatic and military preparations for this event by intensive political preparations within Austria.

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The ultimate purpose of such preparations was to secure the appointment of Nazis, or persons known to be sympathetic to them, to key positions in the Austrian Government, particularly that of Minister of the Interior and Security which controlled police, thus permitting quick suppression of all opposition to the Nazis when the time came.

For this purpose Seyss-Inquart was the Nazis most effective tool, the first of the so-called Quislings or traitors used by them to further their aggressions, and to fasten their hold on their victims. Seyss-Inquart has admitted his membership in the Nazi Party only from 13 March, 1938, but I want to show that he was closely affiliated with them at a much earlier time. For this purpose I now offer in evidence document 3271-PS as USA Exhibit No. 700.

THE PRESIDENT: Thirty-seven what?

LT. ATHERTON: No. 3271-PS, sir. It becomes USA Exhibit No. 700.

Reading from page 9 of the translation, he says in this letter, in this letter to Himmler, dated 19 August, 1939:

"As far as my membership in the Party is concerned, I state that I was never asked to join the Party, but had asked Dr. Kier in December, 1931, to clarify my relationship with the Party, since I regarded the Party as the basis for the solution of the Austrian problem . . . I paid my membership fees and, as I believe, directly to the region (Gau) Vienna. These contributions also took place after the period of suppression. Later on I had direct contact with the Ortsgruppe in Dornbach. My wife paid these fees, but the 'Blockwart' (I believe that is another word for 'Blockleiter') was never in doubt, considering that this amount, forty shillings per month, was a difficult accomplishment for my wife and myself, and I was in every respect treated as a party member. Furthermore, since 1932 I had also been a member of the Styrian Home Guard, Kammerhofer."

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And then go on to the last sentence of the paragraph:

"In every way, therefore, I felt as a Party Member, and considered myself a Party Member thus, as stated as far back as December, 1931."

Now if the Tribunal please, and before I leave this letter, I want just to refer to one or two sentences which the Tribunal will find in the third paragraph on page 7 of the translation. Referring to a meeting which he had had with Hitler, Seyss-Inquart says:

"I left this discussion a very upright man with the unspeakably happy feeling of being permitted to be a tool of the Fuehrer."

THE PRESIDENT: You said the third paragraph on page 7?

LT. ATHERTON: Yes. I will read from about the fourth sentence down.

THE PRESIDENT: Yes.

LT. ATHERTON: "I left this discussion a very upright man with the unspeakably happy feeling of being permitted to be a tool of the Fuehrer."

The truth of the matter is that Seyss-Inquart was an active supporter of the Nazis at all times after 1931. But after the Nazi Party in Austria was declared illegal in July, 1934, he avoided too notorious a connection with the secret Nazi organization, in order to safeguard what the Nazis called his good legal position. By this device he was better able to use his connections with Catholics and others in his work of infiltration for his Nazi superiors.

The Tribunal will remember document 2219-PS, USA Exhibit No. 62, a letter from Seyss-Inquart to Goering of 14 July, 1939, in which Seyss-Inquart makes this clear. It was in this letter also that he said:

"Yet I know that I cling with unconquerable tenacity to the goal in which I believe; that is Greater Germany and the Fuehrer."

The evidence which Mr. Alderman introduced told in detail the manner in which the Nazi conspirators carried out their planned

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assault on Austria. I do not intend to attempt to review any part of this evidence. I merely wish to refer the Tribunal to two documents, which are particularly important in showing the part played by this Defendant. I refer to the Rainer report to Gauleiter Buerckel, dated 6 July, 1939, which relates to the part played by the Austrian Nazi Party, the Defendant Seyss-Inquart and others between July, 1934, and March, 1938, and with the astonishing record of telephone calls between the Defendant Goering or his agents, in Berlin, and Seyss-Inquart and others in Vienna on 11 March, 1938. The Rainer report is document 812-PS, USA Exhibit No. 61, and the Tribunal will find he read the document in full at the beginning of page 502 of the English version of the record. The transcript of the telephone calls is document 2949-PS, USA Exhibit No. 76, and was introduced first at page 566 of the English record.

Now, in order to supplement the foregoing evidence, and further to show that part played by the Defendant Seyss-Inquart, I wish now to introduce in evidence the voluntary statement which Seyss-Inquart signed with advice of his Counsel on 10 December, 1945. This is document No. 3425-PS, and I offer it as USA Exhibit No. 701.

In this statement Seyss-Inquart explains from his point of view his part in bringing about the Anschluss. I want to read first just a few sentences from the second paragraph on the first page. It states--and I quote:

"In 1918 I became interested in the anschluss of Austria with Germany. From that year on I worked, planned and collaborated with others of a like mind to bring about a union of Austria with Germany. It was my desire to effect this union of the two countries in an evolutionary manner, and by legal means. I supported .." Skipping this sentence or two, "I supported also the National Socialist Party as long as it was legal, because it declared itself

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with particular determination in favor of the anschluss. From 1932 onwards I made financial contributions to this party, but I discontinued financial support when it was declared illegal in 1934."

Then skipping down another couple of sentences:

"From July onwards I endeavored to help the National Socialists to regain their legal status, and finally to participate in the Austrian Government. During this time, particularly after the Party was forbidden in July, 1934, I knew that the radical element of the Party was engaged in terroristic activities, such as attacks on railroads, bridges, telephone communications, etc. I knew that the Governments of both Chancellors Dollfuss and Schuschnigg, although they held the same total German viewpoint in principle were opposed to the anschluss then, because of the National Socialist regime in the Reich. I was sympathetic towards the efforts of the Austrian Nazi Party to gain political power and corresponding influence, because they were in favor of the anschluss."

Now briefly summarizing, the Tribunal will note that the Defendant tells how his appointment as State Councillor in May, 1937, was the result of agreement between Austria and Germany in July, 1936, and that was the agreement which Rainer agreed Seyss-Inquart had helped to bring about, that is, his appointment as Minister of the Interior and Security was one of the results of the agreement between Schuschnigg and Hitler at Berchtesgaden, 12 February, 1938, and he admitted after that appointment and the agreement the Austrian National Socialists engaged in more and more widespread demonstrations. He tells us how immediately after this appointment as Minister of the Interior and Security he went directly to Berlin and talked with Himmler and Hitler, and then finally he described the events of that day, of 11 March, 1938, when with the full support of the German military power he became Chancellor.

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I don't want to quote at length from that description, because the Tribunal knows already what happened. Reading a little from on page 3, he says:

"At 10 o'clock in the morning Glaise-Horstenau and I went to the Bundes Chancellory and conferred for about two hours with Dr. Schuschnigg. We told him of all that we knew, particularly about the possibility of disturbances and preparations by the Reich.

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"The Chancellor said that he would give his decision by 1400 hours. While I was with Glaise-Horstenau and Dr. Schuschnigg, I was repeatedly called to the telephone to speak to Goering."

THE PRESIDENT: Has this been read already?

LT. ATHERTON: No, sir, this document has not been in before.

THE PRESIDENT: Very well.

LT. ATHERTON: "He informed me that the agreement of 12.2 had been cancelled, and demanded Dr. Schuschnigg's resignation and my appointment as Chancellor." The Tribunal has heard the other side of the story, the actual telephone conversations. Then finally in comes the two paragraphs in which he tells how Keppler repeatedly urged him to send a telegram calling on Germany to send troops, and that request he refused, but finally, and I now read from the next to the last paragraph:

"As I am able to gather from the records available, I was again requested around 10 p.m. to give my sanction to another somewhat altered telegram, about which I informed President Milas and Dr. Schuschnigg. Finally President Miklas appointed me Chancellor, and a little while later he approved my list of proposed ministers."

If the Tribunal will recall the telegram in question when Hitler on behalf of the Provisional Austrian Government was to send German troops as soon as possible in order to assist in its task, and help it to put down disorders. The telegram told him of the appointment of Seyss-Inquart, which if the Tribunal will refer to document 2463 of the document book. It is interesting to know the text of this telegram is substantially identical with that dictated by Goering over the phone to Keppler on the evening of 11 March, which is in the latter part of page 575 of the record.

Now the next morning, again referring to statement of the defendant, he admitted that he telephoned Hitler --

THE TRIBUNAL (Mr. Biddle): Are you reading?

LT. ATHERTON: No, sir, I am summarizing.

MR. BIDDLE: Don't read it in evidence.

LT. ATHERTON: In that event I will read a little further. I read now the last paragraph on page three:

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"During the morning 12 March I had a telephone conversation with Hitler in which I suggested that while German troops were entering Austria, Austrian troops as assembled should march on the Reich, and Hitler agreed to this suggestion."

He also agreed to meet in Linz of Upper Austria later on of the same day. He then flew to Linz with Himmler, who had arrived in Vienna from Berlin. "I greeted Hitler on the balcony of the City Hall, and said that the Article 88 of the Treaty of St. Germain is now inoperative," and I close the quotes. I have referred to the slavish manner in which the evidence has shown, I would say, the manner in which Seyss-Inquart carried out orders conveyed to him by telephone from Goering on 11 March 1938 in his negotiations with Chancellor Schuschnigg and President Miklas on that day. This relationship had in fact existed for some time. Early in January 1938, Seyss-Inquart, although he then held an important position in the Austrian Government, considered himself as holding a mandate from the Nazi conspirators in Berlin in his negotiations with his own government. As evidence as to the way in which this happened, I offer Document No. 3473-PS as USA Exhibit No. 581. This is a letter -- pardon me, that has already been in evidence, it has been offered. This is a letter from Keppler to Goering, dated 6 January 1938. In this letter he states, and I quote:

"Most honorable General:

Councillor of State, Dr. Seyss-Inquart, has sent a courier to me with the report that his negotiations with the Federal Chancellor Dr. Schuschnigg have run aground, so that he feels compelled to return the mandate entrusted to him."

THE PRESIDENT: Yes. Go ahead.

LT. ATHERTON: "Dr. Seyss-Inquart desires to have a discussion with me regarding this before he acts accordingly. May I ask your advice, whether at this moment such a step entailing automatically als o the resignation of the Federal Minister Glaise von Horstenau appears indicated or whether I should put forth efforts to postpone such an action."

The letter is signed by Keppler. On top of the original is attached a brief note signed by G. Limberger, apparently it was the secretary of the defendant

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Goering, and dated Carinhall, January 6, 1938, reading as follows:

"Keppler should be told by telephone:-

1) He should do everything to avoid the resignation of Councillor of State Dr. Seyss-Inquart and State Minister Glaise von Horstenau. If some difficulties should arise, Mr. Seyss-Inquart should come to him first of all."

Now as the result of this directive apparently telephoned to Keppler, Keppler on 8 January 1938 wrote a letter to Seyss-Inquart. I now offer this letter with is Document No. 3397-PS, in evidence as USA Exhibit No. 702. The Tribunal will remember that Keppler was at that time Secretary of State in charge of Austrian affairs of the German Government:

"Very esteemed State Councillor:

Today I had a visit from Mr. Pl. who gave us a report of the state of affairs and informed us, that you are seriously considering the question of whether or not you are forced to hand back the mandate entrusted to you.

I informed General Goering of the situation in writing, and G. has just had me informed that I should try my utmost to prevent you, or any one else, from taking this step. This is also in the same vein as G.'s conversation with Dr. J. before Christmas, at any rate, G. requests you to undertake nothing of this nature under any circumstances before he himself has the opportunity of speaking with you once more.

I can also inform you that G. is, furthermore, making an effort to speak to Ll., in order that certain improper conditions be eliminated by him."

Then the letter is signed by Keppler.

The two letters together, if the Tribunal please, show clearly enough the extent to which this Defendant was a tool, the extent to which he was being used at that time by the conspirators in their planning for their assault on Austria. Once troops were in Austria and Seyss-Inquart had become Chancellor, he lost no time carrying out the plans of his Nazi masters.

I next offer in evidence Document 3254-PS, which is a memorandum written by the Defendant, Seyss-Inquart, entitled "The Austrian Question." It is USA

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Exhibit No. 704. I offer it only because of the description which he gives of the manner in which he secured the passage of an Austrian Act in annexing Austria to Germany. He said that on March 13 German officials brought him a proposal for inviting Austria into Germany. They reported that --

THE PRESIDENT: Are you quoting?

LT. ATHERTON: I now quote from the middle of page 20 of the English text:

"I called up a Council of Ministers, after having been told by Wolff that the Bund President would make no difficulties against that realization; he was to return to his home in the meantime and should await me there. On my proposal, the assembled Council of Ministers assembled in the meantime adopted the proposal of the bill to which my law section had made some formal modifications. The votes on the 26th of April had been planned already in the first draft. According to the provisions of the Constitution of May 1, 1934, any fundamental modification of the Constitution could be decided by the Council of Ministers with the approbation of the Bund President. A vote or a confirmation by the nation was in no ways provided for. In the case where the Bund President would, for any reason, either have resigned his functions or be for some time impeded in fulfilling them, his prerogatives were to go over to the Bund Chancellor. I went to the Bund President with Dr. Wolff. The President told me that he did not know whether this development would be of welfare to the Austrian Nation, but that he did not wish to interfere and preferred to resign his functions, so that all rights would come into my hands, according to the Constitution."

Then skipping two or three sentences to the top of page 21:

"Thereafter I drove to Kinz, where I arrived around midnight and reported to the Fuehrer the accomplishment of the Anschluss Law."

The same day Germany formally incorporated Austria into the Reich by a decree and declared it to be a province of the German Reich, in violation of Article 80 of the Treaty of Versailles. I ask the Court to take judicial notice of Document No. 2307-PS, which is the decree to this effect, published in 1938 Reichsgesetzblatt, Part I, page 237.

If the Defendant, Seyss-Inquart, seems unduly modest as to the part which he played in undermining the Government to which he owed allegiance, his fel-

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low conspirators were quick to recognize the importance of his contributions. In a speech in Vienna on the 26th of March, 1938, the Defendant, Goering, said -- and I am reading now from Document 3270-PS, which is an extract from the Dokumente der Deutschen Politik, volume 6, page 183:

"A complete unanimity between the Fuehrer and the N.S. confidants inside of Austria existed. . . .If the N.S. rising succeeded so quickly and thoroughly and without bloodshed, it is first of all due to the intelligent and decisive firmness of the present Reichsstatthalter Seyss-Inquart and his confidants."

Before leaving the matter of the anschluss I want to stress this once more, because this was a time of great importance and it was Seyss-Inquart who held the key position in this first open attack on another country. Had it not been for his part -- as has been shown -- things might have gone very differently, and if there were no other place where he were connected with the conspirators for aggression, this would be sufficient to rank him with the foremost of the conspirators.

Now, passing on, Mr. Alderman has shown the way in which Seyss-Inquart cooperated with the conspirators in integrating Austria as fully as possible into the Reich, making its resources available to the Reich -- its resources of wealth, its resources of manpower.

In furtherance of the general plans of the conspirators, Seyss-Inquart, as Reichstatthalter, demonstrated his talent for persecution of Jews. In an address in Vienna on the 26th of March, 1938, which will be found at page 2326 of the record, and as Document No. 3460-PS, USA Exhibit No. 437, the Defendant, Goering, expressly commissioned this Defendant to institute anti-Semitic measures.

And the Tribunal will remember from previous evidence the kind of wholesale larceny such measures involved. So successfully did Seyss-Inquart perform his task that at the meeting at the Air Ministry under the Chairmanship of the Defendant, Goering, on the 12th of November, 1938, Fischboeck, a member of Seyss-Inquart's official family, was able to relate the efficiency with which the Civil Administration of Austria dealt with the so-called

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"Jewish Question." I quote from Document No. 1816-PS, USA Exhibit 261 -- and I am reading from page 14 of the English translation. The Tribunal will note that this is the third full paragraph from the bottom of page 14.

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"Your Excellency:

"In this matter we have already a very complete plan for Austria. There are 12,000 Jewish artisans and 5,000 Jewish retail shops in Vienna. Before the National Revolution, we had already a definite plan for tradesmen, regarding this total of 17,000 stores. Of the shops of the 12,000 artisans about 10,000 were to be closed definitely and 2,000 were to be kept open. 4,000 of the 5,000 retail stores should be closed and 1,000 should be kept open, that is, were to be Aryanized. According to this plan, between 3,000 and 3,500 of the total of 17,000 stores would be kept open, all others closed. This was decided following investigations in every single branch and according to local needs, in agreement with all competent authorities, and is ready for publication as soon as we receive the law which we requested in September; this law shall empower us to withdraw licenses from artisans quite independently from the Jewish Question."

Goering said, "I shall have this decree issued today."

Then, if the Tribunal please, I just wish to read one more sentence from the middle of the next page, in which Fischboeck says:

"Out of 17,000 stores 12,000 or 14,000 would be shut down and the remainder aryanized or handed over to the bureau of trustees which is operated by the State."

And Goering replies, "I have to say that this prosal is grand. This way, the whole affair would be wound up in Vienna, one of the Jewish capitals, so to speak, by Christmas or by the end of the year".

The Defendant, Funk, then says, "We can do the same thing over here".

In other words, Seyss-Inquart's so-called solution was so highly regarded that it was considered a model for the rest of the Reich.

The task of integrating Austria into the Reich being substantially complete, the Nazi conspirators were able to use Seyss-Inquart's expert services for the subjugation of other peoples. As an illustration, I refer the Tribunal to Document D-571, USA Exhibit No. 112, which has already been read in evidence. The Tribunal will recall that from this document it appeared --

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THE PRESIDENT: Where do the D's come---

LIEUTENANT ATHERTON: At the beginning of the document book.

THE PRESIDENT: The C's appear --

LIEUTENANT ATHERTON: After the C's, Sir.

From this evidence it appeared that on the 21st of March, 1939, an official of the British Government reported from Prague to Viscount Halifax that on the 11th of March, 1939, Seyss-Inquart, Buerckel and five German Generals attended a meeting of the Cabinet of the Slovak Government and told them that they should proclaim the independence of Slovakia, that Hitler had decided to settle the question of Czecho Slovakia definitely and that unless they did as they were told, Hitler would disinterest himself in their fate. It just gives an indication of the manner in which this man contiued to be busy in the aggressive plans of these Nazi conzpirators.

Now, early in September, 1939, after the opening of the attack against Poland, Seyss-Inquart became Chief of the Civil Administration of South Poland. A few weeks later -- on the 12th of October, 1939 -- Hitler promulgated a decree providing that territories occupied by German troops, except those incorporated within the German Reich, should be subject to the authority of the Governor-General of the Occupied Polish Territories. He appointed the Defendant, Frank, as Governor-General and the Defendant, Seyss-Inquart, as Deputy Governor-General This decree will be found in 1939 Reichsgesetzblatt, Part I, page 2077, and I ask the Tribunal to take judicial notice of it. Shortly thereafter, on October 26, 1939, Frank promulgated his first decree establishing the administration of the Occupied Polish Territories, of which he was Governor. This decree is published in the Dokumente der Deutschen Politik and appears in the document book as No. 3468-PS. I am informed that this book, volume 7, has also received the exhibit number, 705, and I offer it as such.

Article 3 of the decree provided that the Chief of the office of the Governor-General and the Senior SS and Police Leaders are directly subordinate to the Governor-General and his Deputy. The Deputy, of course, was the Defendant, Seyss-Inquart.

The significance of that provision is obvious in the light of the evidence which the Tribunal has heard and will hear. I ask the Tribunal to take judicial

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notice of this decree.

As Deputy Governor-General of the Polish Occupied Territories, Seyss-Inquart seems to have had the job of setting up a German Administration through this territory; that is, he worked under the Defendant, Frank, but did much of the work of interviewing the various local leaders telling them what they should do. As an illustration I offer in evidence a report of official tour which Seyss-Inquart and his consultants took, between the 17th and 22nd of February, 1939. This is our Document No. 2278-PS, and I offer it as Exhibit 706, USA. If the Tribunal please, I mis-stated that date or period. It was the 17th to the 22nd of November 1939 -- in other words, shortly after the administration was set up. On the first page of the English translation -- and I now quoted from the second full paragraph -- the following appears:

"At 3.0 p.m., Reich Minister Dr. Seyss-Inquart addressed the department heads of the District Chief and stated, among other things, that the chief guiding rule for carrying out the German administration in the General Government must be solely the interests of the German Reich. A stern and inflexible administration must make the area of use to German economy and so that excessive clemency may be guarded against, the results of the intrusion of the Polish race into German territory must be brought to mind".

This report is too long, if the Tribunal please, to quote from at too great length, but if the Tribunal will turn over to page 7, I would like to read some extracts of what occurred while the Defendant was in Lublin. From the report it appears that the Defendant, Seyss-Inquart, after meeting the various local German administrative officers, "then expounded the principles"-- and I am now quoting from the top of page 7 -- "the principles in accordance with which the administration in the 'Government' must be conducted".

Then, skipping a sentence:

"The resources and inhabitants of this country would have to be made of service to the Reich, and only within these limits could they prosper. Independent political thought should no longer be allowed to develop. The Vistula area might perhaps be still more important to German destiny than the Rhine. The Minister then gave as a guiding theme to the District Leaders: We will further everything which is of service to the Reich and will put an

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end to everything which may harm the Reich".

Seyss-Inquart then added that the Governor-General wished that those men who were fulfilling a task for the Reich should receive a material post in keeping with their responsibility and achievements.

Then, if the Tribunal will turn over two more pages, the reporter is describing a sightseeing tour which was made to the village of Wlodawa, Cycow --- and I quote:

"Cycow is a German village. . . Reich Minister Dr. Seyss-Inquart made a speech, in which he pointed out that the fidelity of these Germans to their nationality now found its justification and reward through strength of Adolf Hitler".

And then the next sentence, apparently thrown in by the reporter:

"This district with its very marshy character could, according to District Governor Schmidt's deliberations, serve as a reservation for the Jews, a measure which might possibly lead to heavy mortality among the Jews."

THE PRESIDENT: We might break off here for ten minutes.

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LT. ATHERTON: If the Tribunal please, at the time the Tribunal rose, I was in the process of considering the functions of the defendant Seyss-Inquart, his place as Deputy Governor General of Poland in 1939 and 1940.

Now, the Tribunal has already heard evidence of the atrocities which were perpetrated by the administration which Seyss-Inquart thus helped to create. The Prosecutors for the Soviet Union will present to the Tribunal more evidence of such atrocities. For our present purposes, to show the importance of the work which this man did to further the Nazi plan for the Government General of Poland, it is enough to quote a few words from the diary of the defendant Frank.

On the occasion of what was apparently a farewell lunch to Seyss-Inquart when he became Reichs Commissar of the Netherlands, Frank said--and I now quote from Document 3465-PS, pages 510 and 511 of Volume 2, the 1940 set of the diary, which is USA Exhibit 614:

"I am extremely glad, Mr. Reich Commissar and Reich Minister, to assure you that in this hour of your departure that the months of our collaboration with you belong to the most precious memories of my life and that your work in the General Government will be remembered forever in the building of the coming world empire of the German nation."

Skipping down a little, if the Tribunal please, Frank went on to say:

"In the construction of the General government, your name will forever take a place of honor as an originatore of this organization and this State System. I express our thanks, Mr. Reich Minister, for your collaboration and for your creative energy."

Then reading the last two or three sentences:

"During the hard times, the common work united us here in the East, but it is at the same time the beginning point for a gigantic power development of the German Reich. Its perfection will show the development of the greatest energy unit which there ever was in the history of the world. In this work, you were placed by the Fuehrer very effectively in the most important position."

And to these remarks, the defendant Seyss-Inquart replied--and I now quote from the second page of the translation:

"I learned here a lot, many things which I did not understand before at all, and mainly on account of the initiative and firm leadership as I saw them

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in my friend Dr. Frank."

Then, skipping a sentence:

"I will now go to the West, and I want to be open to you. With my heart I am here, because I am inclined with my whole attitude to the East. In the East we have a National-Socialistic mission; over there in the West we have a function; that may be the difference."

I submit, if the Tribunal please, that the sentences which I have just read show clearly enough the conscious participation of the defendant Seyss-Inquart in the Polish phase of the conspiracy.

Thus equipped with experience gained in Poland and under the

defendant Frank, Seyss-Inquart was ready to undertake his last and most ambitious task, the enslavement of the Netherlands. The ruthless manner in which he performed it marks his position in the Nazi common plan or conspiracy.

I ask the Tribunal first to take judicial notice of a decree of Hitler of 18 May 1940, which is found in 1940 Reichsgesetzblatt, Part I, page 778. The translation will be found in the book as 1376-PS. By Section 1 of this decree it is provided that:

"The Reich Commissioner is protector of the interests of the Reich and will represent the supreme power of the government within the civil sphere. He will be directly subordinated to me and will receive directives and orders from me."

Section 3 provides:

"The Reich Commissioner may use German Police forces to carry out his orders. The German Police forces are at the disposal of the German military commander insofar as the military necessities require this and if the missions of the Reich Commissioner permit it."

Then, by Section 5 of the law, it is provided that the Reich Commissioner may promulgate laws by decree, such orders to be published in the Verordnungsblatt for the Occupied Territory of the Netherlands, a publication which I shall hereafter refer to merely as the Verordnungsblatt.

On the 2 th of May, 1940, acting within these powers, the defendant promulgated an order covering the exercise of governmental authority in the Netherlands. This appears as 3588-PS in the document book. I ask the Tribunal to take judicial notice of its contents.

THE PRESIDENT: 1385?

LT. ATHERTON: 3588-PS. That will have two decrees. I am now referring to the first one.

By Section 1 of this decree, the defendant modestly purports to assume, to the extent required for the fulfillment of his duties, "all powers, privileges, nd rights heretofore vested in the King and the government in accordance with the Constitution and the laws of the Netherlands." That is a direct quotation.

Then, Section 5 of the order entrusts the maintenance of public peace, safety, and order to the Netherlands police force unless the Reich Commissioner

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calls on German SS or police forces for the enforcement of his orders. It further provides that the investigation and combatting of all activities hostile to the Reich and Germanism shall be the concern of the German police force.

On June 3, 1940, a further decree was promulgated concerning the organization and establishment of the Office of Reich Commissioner. This decree is found in the Berordnungsblatt for 1940, Number 1 at Page 11 and is the second decree under 3588-PS. This decree provided for general commissioners on the staff of the Reich Commissioner to head four enumerated sections, one of whom, the Superior SS and Police Chief, was to head the section for Public Safety. It was provided by Section 5 of this decree that this official should command the units of the military SS and German police forces transferred to the occupied Netherlands territories, supervise the Netherlands central and municipal police forces and issue to them necessary orders.

Section 11 provided that --

THE PRESIDENT: Lt. Atherton, don't you think that we can assume that the defendant Seyss-Inquart, who had been appointed to administer the occupied territory of the Netherlands, had all these powers, and that you can turn your attention to what he did under those powers ?

LT. ATHERTON: Yes, sir, I'll do that, Sir, but I wanted to make plain to the Tribunal, because of the peculiar setup of this German police force, the fact that he was granted the power to give orders to them, and, not only that, but that he customarily did. If that point is made clear, as I believe it is, in these two decrees, I will pass on to the next matter.

THE PRESIDENT: I think the Tribunal has no doubt that an officer under the Reich who had got the powers of the administrator of an occupied territory could make use of the police forces.

LT. ATHERTON: Yes, sir.

THE PRESIDENT: It is a matter that we should be prepared to assume until it is proved to the contrary.

LT. ATHERTON: I agree, Sir.

THE PRESIDENT: We would wish you to turn your attentionto show what he did under those powers which constitute crimes.

LT. ATHERTON: Yes, sir. It is not our intention at this time to go

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into the crimes against persons and property which the defendant Seyss-Inquart is responsible for in any detail, because evidence of Nazi barbarity in this country is to be presented by our associates in the French Republic. It is only our purpose to show a few illustrations and to give some idea of the scope of this defendant's activities and his responsibilities as evidence of his part in the execution of the Nazi's common plan or conspiracy, which it is our part to prove.

Now, in the first place, there will be much evidence to show that the defendant was responsible for widespread spoliation of property. Merely as an illustration of the way in which he was implicated in the smallest parts of this, I offer in evidence document 176-PS, as USA Exhibit 707.

THE PRESIDENT: Will you give the number again?

LT. ATHERTON: That is 176-PS, and it becomes US Exhibit 707.

This document is a report on the activities of the working Group Netherlands, a part of the Einsatzstab-Rosenberg, on which the Tribunal has already heard evidence. Quoting from the first page of this report, the first sentence:

"The Working Group Netherlands of the Einsatzstab Reichsleiter Rosenberg began its work in agreement with the competent representative of the Reichskommissar during the first days of September 1940."

The report then proceeds to detail the property taken from Masonic lodges and similar institutions to a considerable extent. Reading from Page -- I believe it is Page 3 of this report, the very bottom:

"An extremely valuable library, containing inestimable works on Sanskrit, was confiscated when the Theosophischen Society in Amsterdam was dissolved, and packed into 96 cases. A number of smaller libraries belonging to the Spiritists, the Esperanto Movement, the Bellamy Movement, the International Biblical Research and various other minor international organizations were packed into seven cases; texts belonging to various minor Jewish organizations were packed into four cases, and a library of the Anthroposaphic Society in Amsterdam into three.

"It is safe to say that the racks of books confiscated, packed and so far sent to Germany by the Working Group are of extraordinary scientific value and shall contribute an integral part of the library of the 'Hohe Schule'."

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The money value of these libraries can only be estimated but surely amounted to 30,000,000 to 49,000,000 Reichsmarks. Then, quoting from the very end of the report:

"The Working Group, in executing the aforementioned tasks, is bound strictly to the pace set by the Reichskommissar for the handling of the Jewish questions and that of the international organizations."

As Reich Commissar, it was one of the functions of the defendant Seyss-Inquart to supervise the execution of the conspirators' program for deportation of Dutch citizens to Germany for slave labor. The Tribunal will recall that Mr. Dodd read into evidence at page 1372 a portion of a transcript of an interrogation of the defendant Sauckel on 5 October 1945, in which it appeared that the quotas for the workers for Holland were agreed upon, and then the numbers given to the Reichskommissar Seyss-Inquart to fulfill, and after the quota was given to Seyss-Inquart, it was his mission to fulfill it with the aid of Sauckel's representative, and then the Tribunal will recall that at Page 1310 of the record, Mr. Dodd, having shown the defendant Seyss-Inquart's part in recruitment for slave labor in this fashion and his responsibility for it, read into the record, page 1310, some portions from document 1726-PS, USA Exhibit 195, which showed the numbers of Netherlands citizens deported to the Reich at various times. Since that is all a matter of record, I will not go into it again.

In the Netherlands, as in Austria and elsewhere, Seyss-Inquart was relentless in his treatment of Jewish Netherlanders. To illustrate his attitude, I offer in evidence document 3430-PS, extracts from the defendant's book, Four Years in the Netherlands, Collected Speeches. It becomes USA Exhibit 708. In a speech in Amsterdam on 12 March 1941 -- and I am now quoting from Page 57 of the original book, the last extract on the translation, Seyss-Inquart said:

"The Jews are not for us. They are those enemies with whom we can neither come to an armistice nor to peace. This applies here, if you wish, for the duration of the occupation. Do not expect an order from me which stipulates this, except regulations concerning police matters. We will beat the Jews wherever we meet them, and those who join them must bear the consequences. The Fuehrer declared that the Jews have played their final act in Europe, and therefore they play have played their final act."

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Now, as promised, Seyss- Inquart proceeded to promulgate the long series of decrees which first threaten the Jewish people in the Netherlands of their property, of their rights, and degraded them to something lower than the lowest, which eventually resulted in their deportation to Poland. These decrees, all signed by Seyss-Inquart, are collected in our brief, page 65. I ask the Court to take judicial notice of them. By way of illustration, the first to which I wish to refer appears in the document book as 3333-PS, and it is a decree of 26 October 1940, requiring the registration of businesses belonging to Jews as defined in the decree, including partnerships or corporations in which Jews owned a substantial interest. You've seen this type of law was the inevitable prelude to mass confiscation of the property of Jews under the Nazi administration. In a law found in Verordnungsblatt, No. 6, page 99, 14 February 1941, 3325-PS, Dutch universities and colleges were limited in the registration of Jewish students. This of itself doesn't seem important, but it's a part of the program to take away from these people their leadership and degrade them. The decree is 3325-PS, 23 October 1941, decree published in Verordnungsblatt No. 44, at page 841, signed by Seyss-Inquart, prevented Jews from exercising any profession or trade.

THE PRESIDENT: Did you give us the PS number?

LT. ATHERTON: Yes, sir. That is 3328-PS, sir, and it's translated in full. It prevented the Jews from exercising any profession or trade without authorization from administrative authorities, and permitted such authorities to order the termination of any employment contract concerning Jews.

The final illustration, I refer in passing to 3336-PS, a decree published in the Verordnungsblatt No. 13, page 289, and dated 23 May 1942. This decree required all Jews to make written declaration of claims of any kind of which they might be beneficiaries, at a banking firm known as Lippman-Rosenthal and Co., which was actually an agency of the Reich at Amsterdam. The degree gave the bank -- this named bank -- all rights to dispose of the claim and provided that payment to the bank should be released in full. This type of Nazi decree was, of course, a forerunner of ultimate deportation to the East and ultimate annihilation.

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Evidence of the success of this defendant's efforts to annihilate all Jews in the Netherlands has already been read into the record. The court will find that Major Walsh--again reading from the report of the Netherlands Government, USA Exhibit 195, at page 1497--showed that out of 140,000 Jewish Netherlanders, 117,000 were deported, over 115,000 of them to Poland, over eighty per cent. The evidence has shown what was

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the probable fate of most of these people, and I shan't dwell on it further.

Finally, I want to say a few words about the responsibility of this defendant for the systematic terror practiced against the inhabitants of the occupied territories by the Nazis throughout the Occupation. Referring again to the collected speeches in document 3430-PS, on 29 January 1943, the defendant left little doubt of his point of view. He said, and I quote:

"It is also clear, now more than ever, that every resistance which is directed against this fight for existence must be suppressed. Some time ago the representatives of the churches had written to the Wehrmacht commander and to me, and they presented their conception against the executions of death sentences which the Wehrmacht commander announced in the meantime. To this I can only say the following: The moment in which our men, fathers and sons with iron determination look towards their fate in the east and unflinchingly and steadfastly perform their highest pledge, it is unbearable to tolerate conspiracies whose goal is to weaken this easternfront. Whoever dares this must be annihilated. We must be severe and become even more severe against our opponenets. This is the command of a relentless sequence of events and for us perhaps humanly hard, but our holy duty. We remain human because we do not torture our opponents. We remain by annihilating."

I do not offer any evidence of the commission of these crimes, because that is to be done by prosecutors of the French Republic. But the position of the defendant Seyss-Inquart as Reich Commissar, the control which he exercised, which has been shown, particularly over the SS and Police, and the attitude of the man himself will make clear his authorization and participatic in the crimes to be proved, and are a further indication of his part in the common plan.

Seyss-Inquart supported the Nazi Party as early as '31. He was a traito to the Government to which he owed allegiance and in which he held high offic With full knowledge of the ultimate purposes of the conspirators, he bent every effort to integrate Austria into the Reich and to make its resources and manpower as well as its strategic position available for the Nazi War machine.

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He performed these tasks with ruthless efficiency that he was chosen thereafter for key positions in the enslavement of Poland and the Netherlands. The positions which he filled with such satisfaction to his superiors that ultimately he came to be one of the foremost and most detested leaders in this common plan. At such, under Article 6 of the Charter, he is responsible for all acts performed by any persons in execution of that plan. As such he is guilty of the crimes charged to him under Counts One and Two of the Indictment.

I wish to introduce to the Tribunal at this time Mr. Robert M.W. Kempner, who will represent the prosecution in the next phase of the case dealing with the defendant Frick.

DR. KEMPNER: May it please the Tribunal: There have been distributed to the Tribunal and to all defense counsel trial briefs and documents relating to the defendant Frick. The trial brief prepared by my colleague Karl Lachmann sets forth in great detail the evidence, both in the form of documents and decrees against the defendant Wilhelm Frick. English translations are evidential, and material referred to in the trial briefs are included in the document book prepared by my colleague Lt. Felton. This book has been marked "LL".

Defendant Frick's great contribution to the Nazi conspiracy was in the field of governmental administration. He was the administrative brain who devised the machinery of state for Nazism, who geared that machinery for aggressive war.

In the course of his active participation in the Nazi conspiracy, from 1923 to 1945, the defendant Frick occupied a number of important positions. Document 2978-PS, which has previously been introduced as USA Exhibit No. 8, lists the positions in detail. The original was signed by the defendant Frick on 14 October 1945. I do not repeat these positions; they are known to the Court. Frick's past activity on behalf of the Nazi conspirators was his participation in promoting their rise to power. Frick betrayed in his capacity as law enforcement official of the Bavarian Government by participati in the Munich Beer Hall Putsch of November 8, 1923. Frick was quite intense to go with Hitler on a charge of complicity and treason. His position in tha Putsch is described in a record of the proceedings called "The Hitler Trial

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Before the Peoples' Court in Munich", published in Munich in 1924.

I will ask this Tribunal to take judicial notice of this record of proceedings. Hitler's appreciation of Frick's assistance is evidenced by the fact that he honored Frick by mentioning his name in "Mein Kampf". Only two other Defendants in this proceeding share this honor; namely, Hess and Streicher. I ask the Tribunal to take judicial notice of the favorable mention of Defendant Frick in "Mein Kampf", German edition, 1933, page 403.

During the period after the Putsch, Frick made further contributions to the Nazi conspiracy. I should like to refer briefly to Document 2513-PS, an excerpt of pages 36 to 38 from the Report entitled "The National Socialist Workers Party as an Association Hostile to the State and to the Republican Form of Government and Guilty of Treasonable Activity." This Report has been previously introduced as Document 2513-PS, USA Exhibit 235. It is an official report of the criminal activities of Hitler, Frick and other Nazis prepared by the Prussian Ministry of the Interior in 1930. It states that Frick, next to Hitler, can be regarded as the most influential representative of the Nazi Party at their trial. This document reported that at the 1927 Party Congress in Nurnberg, Frick said that the Reichstag would first be misused by the Nazi Party, would then be abolished, and that its abolition would open the way for racial dictatorship. The document also reported that Frick stated in a speech in 1929 at Pyritz that this fateful struggle will first be taken up with the ballot, but this cannot continue indefinitely, for history has taught us that in a battle blood must be shed and iron broken.

Back in 1927 Frick's prominent role in helping to bring the Nazis to power was recognized when, on 23 January 1930, he was appointed Minister of the Interior and Education in the State of Thuringia.

THE PRESIDENT: Are you passing from that document now? I thought you were reading from 2513.

DR. KEMPNER: Now, this is an introduction for the next document. I just started with reference to the fact that Adolf Hitler at this time, when Frick was Minister of the Interior in the State of Thuringia, was a Stateless alien, not a German citizen. In his capacity as Minister of Moravia, the Defendant Frick began his manipulations to provide Adolf Hitler, the Stateless

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aryan, with German citizenship, an essential step toward the realization of the Nazi conspiracy.

This lack of German citizenship was highly detrimental to the cause of the Nazi Party because, as an alien, Hitler could not become a candidate for the Reich Presidency in Germany.

It was the defendant Frick who solved this problem by an administrative manoeuvre. We now introduce into evidence Document 3564-PS, USA Exhibit No.709. This document is an affidavit by Otto Meissner of 27 December 1945. Meissner was former state secretary and chief of Hitler's Presidential Chancellory. The last two sentences of this affidavit read as follows:

> "Frick also, in collaboration with Klagges, Minister of Brunswick, succeeded in naturalizing Hitler as a German citizen in 1932 by having him appointed a Brunswick government official (Counsellor of Government). This was done in order to make it possible for Hitler to run as a candidate for the office of President of the Reich."

When Hitler came to power on 30 January 1933, Frick was duly awarded a prominent post in the new regime as Reich Minister of the Interior. In this capacity he became responsible for the establishment of totalitarian control over Germany, an indispensable prerequisite for the preparation of aggressive warfare. Frick assumed responsibility for the realization of a large part of the Nazi conspirators' program both through administration and legislation.

I must explain briefly the significance of the Ministry of the Interior in the Nazi State to show the contribution made by Frick to the conspiracy. I offer as evidence of Frick's extensive jurisdiction as Minister of the Interior Document 3475-PS, USA Exhibit No. 710, which is part of the official German manual for administrative officials, dated 1943. I ask that the Tribunal take judicial notice of Frick's jurisdiction mentioned in this document. The names of the men who, according to this document, worked under Frick's supervision, are symbolic, and I stress this point "worked under Frick's supervision." They are listed on page 1 of the

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English translation. Here we find among the subordinates of Frick "Reich Health Leader Dr. Conti", "Reichsfuehrer SS and Chief of the German Police Heinrich Himmler", "Reich Labor Service Leader Rierl". This document shows Frick as supreme commander of three important pillars

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of the Nazi state: the Nazi Health Service, the Police System and the Labor Service.

The wide variety of Frick's activities as Reich Minister of the Interior can be judged from the following catalogue of his functions, enumerated on the following catalogue of his functions, enumerated on the following pages of the manual. He had final authority over constitutional questions, drafted legislation, had jurisdiction over governmental administration and civil defense, and was final arbiter in all questions concerning race and citizenship. The manual also lists sections of the ministry concerned with administrative problems for the occupied territories and annexed territories, the new order in the Southeast, the Protectorate of Bohemia and Moravia, and the new order in the East. He also had full jurisdiction in the field of civil service, including such matters as appointment, tenure, promotion and dismissal.

The defendant Frick used his wide powers as Reichsminister of the Interior to advance the cause of the Nazi conspiracy. To accomplish this purpose , he drafted and signed the laws and decrees which abolished the autonomous state governments, the autonomous local governments and the political parties in Germany other than the Nazi Party.

In 1933 and 1934, the first two years of the Nazi regime, Frick signed about 235 laws or decrees, all of which are published in the Reichsgesetzblatt. I should like to refer briefly to a few of the more important laws and decrees, such as the law of 14 July 1933 outlawing all political parties other than the Nazi Party, Reichsgesetzblatt, 1933, I, page 479 (Document 1388A-PS); the law of 1 December 1933 securing the unity of Party and state, Reichsgesetzblatt, 1933, I, page 1016 (Document 1395-PS); the law of 30 January 1934 transferring the sovereignty of the German states to the Reich, Reichsgesetzblatt, 1934, I, page 75 (Document 3068-PS); the German Municipality Act of 30 January 1935, which gave Frick's Ministry of the Interior final authority to appoint and dismiss all members of parties who are against Germany, Reichsgesetzblatt, 1935, I, page 49 (Document 2008-PS); and finally the Nazi Civil Service Act of 7 April 1933 which provided that all civil servants must be trustworthy as defined by Nazi

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standards and also must meet the Nazi racial requirements, Reichsgesetzblatt, 1933, I, page 175 (Document 1397-PS).

One category of Frick's activities,however, deserves special notice; that is, the crushing of opposition by legally camouflaged police terror. This is shown by the book, "Dr. Wilhelm Frick and His Ministry", our Document 3119-PS which is in evidence as US Exhibit No.711, written by Frick, Undersecretary, and some co-conspirator, Hans Fundner, apparently written to establish Frick's eternal contribution to the creation of the Nazi's thousand year Reich. It states, and I quote briefly from page 4, paragraph 4,of the English translation:

"While Marxism in Prussia was crushed by the hard fist of the Prussian Prime Minister, Hermann Goering, and a gigantic wave of propaganda was initiated for the Reichstag elections of 5 March 1933, Dr. Frick prepared the complete seizure of power in all states of the Reich. All at once the political opposition disappeared. All at once the Main (River) line was eliminated -- from this time on only one will and one leadership reigned in the German Reich."

How was this done? On February 28, 1933, the day after the Reichstag fire, civil rights in Germany were abolished. This decree was published in the Reichsgesetzblatt, 1933, page 83, and an English translation of it appears in the document book as number 1390-PS. I refer to this decree at this time because it carries the signature of the Reich Minister of the Interior, Frick.

And now something important. It is stated at the beginning of the decree, which was published on the morning after the Reichstag fire, that the suspension of civil rights is decreed as a defense measure against Communist acts of violence endangering the State.

At the time of publication of this decree, the Nazi Government announced that a thorough investigation had proven that the Communists had set fire to the Reichstag building.

I do not intend to go into the controversial issue as to who set fire to the Reichstag, but I should like to offer proof that the official Nazi statement that the Communists were responsible for the fire was issued without any investigation, and that the preamble of the decree which had Frick's

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signature was a mere subterfuge.

I offer into evidence --

THE PRESIDENT: (Interposing): You are going too fast. You must try and go a little bit slower.

DR. KEMPNER: I offer into evidence a very short excerpt of an interrogation of Defendant Goering, dated October 13, 1945, our Document 3593-PS, USA Exhibit 712, and I should like to read the following brief portion, beginning on page 4:

My question to Goering: "How could you tell your press agent, one hour after the Reichstag caught fire, that the Communists did it, without investigation?"

Goering's answer: "Did the public relations officer say that I said that?"

My answer: "Yes. He said you said it."

Goering: "It is possible when I came to the Reichstag, the Fuehrer and his gentlemen were there. I was doubtful at the time but it was their opinion that the Communists had started the fire."

My question: "But you were the highest law enforcement official in a certain sense. Daluege was your subordinate. Looking back at it now, and not in the excitement that was there once, wasn't it too early to say without any investigation that the Communists had started the fire?"

Goering: "Yes , that is possible, but the Fuehrer wanted it this way."

Question: "Why did the Fuehrer want to issue at once a statement that the Communists had started the fire?"

Answer: "He was convinced of it."

Question: "It is right when I say he was convinced without having any evidence or any proof of that at this moment?"

Goering: "That is right, but you must take into account that at that time the Communist activity was extremely strong, that our new government as such was not very secure."

THE PRESIDENT: Dr. Kempner, what has that got to do with Frick?

DR. KEMPNER: He signed the decree, as I said before, abolishing civil liberties, on the morning after, pointing out that there was a Communist

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danger. On the other side, this Communist danger was a mere subterfuge and was one of the things which finally led to the second World War.

The Defendant Frick not only abolished civil liberties within Germany, but he also became the organizer of the huge police network of the Nazi Reich.

Parenthetically, I may state that before this time there was no unified Reich Police system; the individual German states had police forces of their own.

I ask the Tribunal to take judicial notice of the decree of June 17, 1936, signed by Frick and published in the Reichsgesetzblatt, 1936, page 487. An English translation of this decree is in the document book under the number 2073-PS.

Section 1 of this Frick decree reads as follows:

"For the unification of police duties in the Reich, a Chief of German Police is instituted in the German Ministry of the Interior, to whom is assigned the direction and conduct of all police affairs."

And from Section 2 we learn that it was the Defendant Frick, and Hitler, the signers of the decree, who appointed Himmler as Chief of the German Police.

Paragraph 2 of Section 2 of the decree states that Himmler was, and I quote, "subordinated individually and directly to the Reich and Prussian Minister of the Interior." And, of course, that is Frick.

The official chart of the German police system, Document 1852-PS, which has already been introduced into evidence as USA Exhibit 449, clearly shows the position of the Reich Minister of the Interior Frick as the supreme commander of the entire German police system, including the notorious RSHA, of which the Defendant Kaltenbrunner became chief, under Frick, in January 1943.

The Defendant Frick used his authority over the newly centralized police system for the promotion of the Nazi conspiracy. The Tribunal may take judicial notice of Frick's decree of September 20, 1936, published in the Minsterial Gazette of the Reich-Ministerialblatt des Reichs, und Preussischen Ministerium des Innern, 1936, page 1343, Document 2245-PS.

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In this decree Frick reserved for himself the authority to appoint inspectors of the security police, subordinated them to his district governors, the Oberpraesidenten, and ordered them to have a close cooperation with the Party and the armed forces.

Another example of the use of his activities in the police sphere in in his ordinance of March 18, 1938, concerning the Austrian Anschluss, in which Frick authorized the Reichsfuehrer of the SS and Police, Himmler, to take security measures in Austria without regard to previous legal limitations. This decree is published in the Reichsgesetzblatt, 1938, page 262, and appears in the document book as 1437-PS.

I shall not here repeat the evidence concerning the criminal activities of the German police, over which the Defendant Frick had supreme authority. I should simply like to refer the Tribunal to the presentations already made on the subject of concentration camps and the Gestapo, two of the police institutions under Frick's jurisdiction. But I should like to show that not only Himmler's subordinate machine but also Frick's ministry itself was familiar with these institutions. Therefore, I now offer into evidence Document 1643-PS, as USA Exhibit 713.

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This document is a synopsis of correspondence between the Reich Ministry of the Interior and its field offices from November 1942 through August 1943, on the subject of the legal aspects of the confiscation of property by the SS for the enlargement of the concentration camp at Auschwitz. At the bottom of page 1 and top of page 2 of the English translation there appears a synopsis of the minutes of a meeting held on December 17 and 18, 1942, concerning the confiscation of this property. These minutes indicate that a further discussion was to be held on the subject on 21 December, 1942, between the representatives of the Reich Minister of the Interior and the Reichsfuehrer-SS. On page 2 there appears also a summary of a teletype letter dated January 22, 1943, from Dr. Hoffman, representing the Reich Minister of the Interior, to the District Governor in Kattwitz.

The summary begins as follows, and I quote:

"The territory of the Auschwitz Concentration Camp will be changed into an independent state"--which means an administrative territory of itself.

The fact that the Defendant Frick demonstrated personal interest in a concentration camp became known through the testimony of Dr. Blaha, to which I should like to refer the Tribunal, and in which he testified that Frick visited the Dachau Camp in 1943.

The next aspect of the participation of the Defendant Frick in the Nazi conspiracy concerns his promotion of racial persecution and racism, involving the wiping out of the Jews.

In addition to the many other responsibilities of Frick, this vast administrative empire covered the entire area of the enactment and administration of racial legislation.

I refer again to Document 3475-PS, "The Maual for German Administrative Officials", previously introduced, and I refer to pages 2 and 4, showing that Frick was administrative and legislative guardian and protector of the German race.

In order to avoid any repetition, I shall not quote the various acts drafted by Frick's ministry against the Jews. The presentation concerning persecution of the Jews made by Major Walsh before the Christmas recess listed a number of decrees signed by Frick, including the infamous Nurnberg Laws, and the laws depriving Jews of their property, their rights of citizenship, and stigmatizing them with the Yellow Star.

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But the activities of Frick's ministry were not restricted to the commission of such crimes, camouflaged in the form of legislation. The police field offices, subordinate to Frick, participated in the organization of such terroristic activities as the Progrom of November 9, 1938.

I refer to a series of Heydrich's orders and reports concerning the organization of these progroms - or, as they were termed by Heydrich, "spontaneous riots" - Documents 3051-PS and 3058-PS, which are already in evidence as USA Exhibits 240 and 508.

Three days after this program of 9 November 1938 Frick, his Undersecretary Stuckart and his subordinates Heydrich and Daluege, participated in a conference on the Jewish question under the chairmanship of the defendant Goering. At this meeting the vario us measures were discussed which the individual governmental departments should initiate against the Jews. A stenographic record of this meeting, Document 1816-PS, is already in evidence as USA Exhibit 261. May I briefly refer to the bottom of page 23 of the English translation where we find Goering's concluding remarks:

"Also the Ministry of the Interior and the Police will have to think over what measures will have to be taken."

This remark shows that Goering regarded it as Frick's duty to follow up by administrative devices the progrom, organized by Frick's own subordinates.

In the foregoing presentation, we have shown that the defendant Frick as a member of the conspiracy devised the machinery of the state for Nazism. In the following presentation, we will show that Frick actively supported the preparation of the Nazi State for war.

May we begin this portion by showing that Frick was in sympathy with the flagrent violations by Germany of her treaties of non-aggression. This is clearly shown by the affidavit of Ambassador Messersmith, Document 2385-PS, previously introduced as USA Exhibit 68. I shall quote only one sentence from this affidavit, page 4, line 10. It reads as follows:

"High ranking Nazis with whom I had to maintain official contact, particularly men such as Goering, Goebbels, Ley, Frick, Frank, Darre and others, repeatedly scoffed at my position as to the binding character of treaties and openly stated to me that Germany would observe her international undertakings only so long as it suited Germany's interests to do so."

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In May 19345, by his appointment as General Plenipotentiary for the administration of the Reich, Frick became one of the big three in charge of preparing Germany for war. The other two members of the triumvirate were the Chief of the OKW and the General Plenipotentiary for Economy, at that time the defendant Schacht. Frick has admitted that he held the position of General Plenipotentiary since 21 May 1935, the date of the original secret Reich Defense Law. I refer to his statement of positions, Document 2978-PS, USA Exhibit No. 8.

His functions as General Plenipotentiary are outlined in the Reich Defense Law of 4 September 1938, which was classified top military secret and appears in our document book as 2194-PS, USA Exhibit 36. Under this law of 1938, paragraph 3, tremendous power was concentrated in the hands of Frick as General Plenipotentiary for Administration. In addition to the offices under his supervision as Minister of the Interior, the law made the following offices subordinate to Frick for the purpose of carrying out the directives of the law: Reich Minister of Justice, Reich Minister of Education, Reich Minister for Religious Matters and the Reich Office for Planning.

Frick admitted the significant part he played in the preparations for war as a member of the triumvirate in a speech made on 7 March 1940 at the University of Freiburg. Excerpts appear in the document book as 2608-PS, which I offer in evidence as USA Exhibit 714. I think it would be helpful if the Tribunal would allow me to read two short paragraphs, beginning at the top of page 1 of the English translation:

". . . The organ ization of the non-military national defense fits organically into the entire structure of the National Socialist government and administration. This state of affairs is not exceptional, but a necessary and planned part of the National Socialist order. Thus, the conversion of our administration and economy to wartime conditions has been accomplished very quickly and without any friction - avoiding the otherwise very dangerous changes of the entire structure of the State."

"The planned preparation of the administration for the possibility of a war has already been carried out during the peace. For this purpose, the Fuehrer appointed a Plenipotentiary General for the

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Reich Administration and a Plenipotentiary General for the Economy."

Many of Frick's contributions to the preparation of the German state for war are outlined in detail in the book "Dr. Wilhelm Frick and His Ministry", which is already in evidence (Document 3119-PS) May I quote two short sentences from the top of page 3 of the English translations:

> "Besides, the leading cooperation of the Reich Minister of the Interior in the important field of military legislation, and thus in the establishment of our armed forces, has to be particularly emphasized. After all, the Reich Minister of the Interior is the civilian minister of the defense of the country, who in this capacity, together with the Reich War Minister, not only signed the military law of 21 May 1935, but in his capacity as The Supreme Chief of the General and Inner Administration as well as of the police, he has also received from the Fuehrer and Reich Chancellor important powers in the fields of the replacement system and of military supervision."

I have previously mentioned that, as Minister of the Interior, Frick was responsible for the administrative policy in occupied and annexed territories. It was his ministry which introduced the new German order throughout the vast territory of Europe occupied by the German armed forces, and the defendant Frick exercized these powers. I request that the Tribunal take judicial notice of three decrees signed by Frick, introducing German law into Austria, the Sudetenland and the Government General of Poland respectively: Decree of 13 March 1938, Reichsgesetzblatt, 1938, I, page 237, Art. 8. (Document 2307-PS): Decree of 1 October 1938, Reichsgesetzblatt, 1938, I, page 1331, paragraph 8 (Document 3073-PS): Decree of 12 October 1939, Reichsgesetzblatt, 1939, I, page 2077, paragraph 8(1) (Document 3079-PS).

Frick's ministry also arranged the selection and assignment of hundreds of occupation officials for the Soviet territory even before the invasion. This fact appears in a report by the defendant Rosenberg of April 1941 on preparations for the administration of occupied territory in the East. May I refer to page 2, paragraph 2, of Document 1039-PS, which has previously been introduced as USA Exhibit 146.

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One category of Frick's contribution to the planning of and preparation for aggressive war deserves special notice. This is the systematic killing of persons regarded as useless to the German war machine, such as the insane, crippled and aged, and foreign laborers who were no longer able to work. These killings were carried out in nursing homes, hospitals and asylums. The Tribunal will recall that the defendant Frick, in his capacity as Reich Minister of the Interior, had jurisdiction over public health and institutions. May I refer again briefly to the "Manual for German Administrative Officials", Document 3475-PS, this time to pages 3, 4 and 7 of the English partial translation. There, the following are mentioned as Frick's jurisdictional areas: "Health Administration", "Special Hygiene", "Heredity and Racial Welfare", "Reich Plenipotentiary for Sanataria and Nursing Homes."

As proof that Frick's jurisdiction covered the death cases in these institutions, I now offer in evidence Document 621-PS, USA

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Exhibit 715, which is a letter of 2 October 1940 from the Chief of the Reich Chancellory, Dr. Lammers, to the Reichsminister of Justice, informing the latter that material concerning the death of inmates of nursing homes had been transmitted to the Reichsminister of the Interior for further action. In fact, the defendant Frick not only had jurisdiction over these establishments, but he was one of the originators of a secret law organizing the murdering.

I now offer Document 1556-PS, USA Exhibit 716. This is an official report dated December 1941 of the Czechoslovak War Crimes Commission, entitled "Detailed Statement on the Murdering of Ill and Aged People in Germany." I should like to quote very brief excerpts from this report. Paragraphs 1, 2 and 3 read as follows:

"1) The murdering can be traced back to a secret law which was released some time in the summer 1940.

"2) Besides the Chief Physician of the Reich, Dr. L. Conti, the Reichsfuehrer SS Himmler, the Reichsminister of the Interior Dr. Frick, as well as other men, the following participated in the introduction of this secret law: (other names are listed).

"3) As I have already stated, there were - after careful calculation - at least 200,000 mainly mentally deficient, imbeciles, besides neurological cases and medically unfit people - these were not only incurable cases - and at least 75,000 aged people."

The most striking example of the continued killings in these institutions, which were under Frick's jurisdiction and operated under the order of which Frick was a co-author, is the famous Hadamar case.

Your Honor, may I ask you whether I can have ten more minutes to end this presentation, because the Chief Prosecutors agreed, as I understood, to start tomorrow morning the case of the French, and I have just ten more minutes.

THE PRESIDENT: Yes, very well.

DR. KEMPNER: Thank you, your Lordship.

I refer back to the Hadamar case. I now offer in evidence Document No. 615 PS, U.S.A. Exhibit 717.

THE TRIBUNAL (By Mr. Biddle): What is this last report that you spoke about, 1556? Whose is it?

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DR. KEMPNER: The Czechoslovak War Crimes Commission report, and after I have shown the general scheme, of which Frick was a part also, I would like to show that Frick's ministry was acquainted with the things that were going on under his organizational authorship, and therefore I am quoting now a letter to show that he was acquainted with these killings and that these killings had even become public knowledge. For this reason I offer in evidence Document 615 PS, U.S.A. Exhibit No. 717. This document is a letter from the Bishop of Limburg of 13 August 1941 to the Reichsminister of Justice. Copies were sent to the Reichsminister of the Interior -- this means Frick -- and the Reichsminster for Church Affairs. I now quote from this letter:

"About 8 kilometers from Limburg, in the little town of Hadamar, on a hill overlooking the town, there is an institution which had formerly served various purposes and of late had been used as a nursing home; this institution was renovated and furnished as a place in which, by consensus of opinion, the above mentioned Euthenasia has been systematically practiced for months -- approximately since February 1941. The fact has become known beyond the administrative district of Wiesbaden, because death certificates from a Registry Hadamar-Moenchberg are sent to the home communities."....

And I quote further:

"Several times a week buses arrive in Hadamar with a considerable number of such victims. School children of the vicinity know this vehicle and say: 'There comes the murder-box again.' After the arrival of the vehicle, the citizens of Hadamar watch the smoke rise out of the chimney and are tortured with the ever-present thought of the miserable victims, especially when repulsive odors annoy them, depending on the direction of the wind.

"The effect of the principles at work here are: Children call each other names and say, 'You're crazy; you'll be sent to the baking oven in Hadamar.' Those who do not want to marry, or find no opportunity, say, 'Marry, never! Bring children into the world so they can be put into the bottling machine!' You hear old folks say, 'Don't send me to a state hospital! After the feeble-

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minded have been finished off, the next useless eaters whose turn will come are the old people.'

.... "The population cannot grasp that systematic actions are carried out which, in accordance with Par. 211 of the German criminal code, are punishable with death!....

"Officials of the Secret State Police, it is said, are trying to suppress discussion of the Hadamar occurences by means of severe threats. In the interest of public peace, this may be well intended. But the knowledge and the conviction and the indignation of the population cannot be changed by it; the conviction will be increased with the bitter realization that discussion is prohibited with threats but that the actions themselves are not prosecuted under penal law."

I quote the last paragraph of the letter, the postscript:

"I am submitting copies of this letter to the Reich Minister of the Interior and the Reich Minister for Church Affairs. (Initialled by above)"

Nevertheless, the killings carried out in these institutions under the secret law created by defendant Frick, Himmler and others, continued year after year. I offer in evidence Document 3592-PS,

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THE PRESIDENT: Was any answer made to that letter?

DR KEMPNER: No answer has been found. I say no answer has been found. I have other letters which I am not able to quote here today which have the remark "Don't answer."

THE PRESIDENT: I didn't follow that.

DR KEMPNER: I have other letters which have the remark "Please don't ans wer."

THE PRESIDENT: "Please don't answer?"

DR KEMPNER: That it should be unanswered.

Nevertheless, the killings carried out in these institutions under the secret law created by defendant Frick, Himmler and others continued year after year. I offer in evidence Document 3592-PS, U.S.A. Exhibit 718, which is a certified copy of the charge, specifications, findings, and sentence of the U.S Military Commission at Wiesbaden, against theindividuals who operated the Hadamar Sanitarium, where many Russians and Poles were murdered. In this particular proceeding seven defendants were charged with the murder in 1944 and 1945 of 400 persons of Polish and Russian nationality, and three of the defendants were sentenced to be hanged; the other four were sentenced to confinement at hard labor.

Now I come to the last page of my presentation, the final case of Frick's responsibility, which arises under his position as Reich Protector of Bohemia and Moravia for the period from August 20, 1943, until the end of the war. I think it is not necessary to say anything about the functions of the protector of Bohemia and Moravia; these broad powers are known to the Court.

THE PRESIDENT: Before you pass from 3592-PS, is it clear that that trial relates to the killing of Polish and Russian nationalities in nursing homes or institutions of that sort?

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DR KEMPNER: Who did the killing?

THE PRESIDENT: Is it clear that the document you just referred us to, 3592, relates to a trial of German nationals for killing Poles and Russians in nursing homes?

DR KEMPNER: It is absolutely clear in this document, the sentence of the Military Commission of Hadamar for Wiesbaden.

THE PRESIDENT: Will you show me where that is?

DR KEMPNER: Document No. 3592-PS. I quote:

"Specification: Alfonse Klein, Adolf Wahlmann, Heinrich Ruoff, Karl Willig, Adolf Merkle, Irmgard Huber, and Phillip Blum, acting jointly and in pursuance of a common intent, and acting for and on behalf of the then German Reich did from or about July 1, 1944, until about April 1, 1945, at Hadamar, Germany, wilfully, deliberately, and wrongfully, cooperate and participate in the killing of human beings of Polish and Russian nationality; their exact names and number being unknown, but totalling in the aggregate in excess of 400; and they were then confined by the German Reich as an exercise in belligerent control."

THE PRESIDENT: It doesn't show that it came within the jurisdiction of the Ministry of the Interior.

DR KEMPNER: Sometime ago I referred to the Manual of the German Administrative Officials. This manual points out clearly that nursing homes, sanitaria, and similar establishments are under the supervision of the Ministry of the Interior.

THE COURT: I follow that, but this document does not refer to nursing homes. That is what I was asking you.

DR KEMPNER: Yes, it says only Hadamar. It is in fact the Hadamar nursing home. This portion wasn't given by the Judge Advocate General, but I am willing to give later a more extended document that Hadamar is a common

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name for the so-called Hadamar killing mill, which is a nursing home.

Now I come to the last paragraph of my presentation.

THE PRESIDENT: Wait a moment, Dr. Kempner. Counsel for the defense wishes to speak. There is a gentlemen standing by your side.

DR. PANNENBECKER (Counsel for Frick): Dr. Pannenbecker, counsel for Defendant Frick.

From Document 3592-PS, from which there were certain excerpts just read, I cannot find that the defendant Frick is connected with the document in any way.

THE PRESIDENT: Surely it is not necessary for you to get up and repeat what I have just said.

DR. PANNENBECKER: I would like to add something else.

THE PRESIDENT: I beg your pardon.

DR. PANNENBECKER: I would like to add that the defendant Frick since August, 1943, was not Minister of the Interior, and for that reason this document shouldn't be used against him.

THE PRESIDENT: And it doesn't give the date of the death of these people. At any rate, until Dr. Kempner produces something to show that this was a nursing home and at a time during which the defendant Frick was Minister of the Interior, the Tribunal will not treat it as being evidence which implicates Frick.

DR. KEMPNER: I quoted this killing in Hadamar for two reasons: First, because the Ministry of the Interior has become acquainted, as I said before, with the letter of the Bishop of Limburg, in 1941, when Frick was Minister of the Interion and knew about this facts; and I quoted the military decision for the reason that these killings were still going on in 1944 and 1945 under a law of which the defendant Frick was the co-author.

The final phase of Frick's responsibility arises under his position as Reich Protector of Bohemia and Moravia for the period from 20 August 1943 until the end of the war. I shall mention one example. I offer in evidence Document No. 3589-PS, U.S.A. Exhibit 721, which is a supplement to an official Czechoslovak report on German crimes against Czechoslovakia. I would like to que only the following brief passage from this report:

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"During the tenure of office of defendant Wilhelm Frick as Reich Protector of Bohemia and Moravia from August 1943 until the liberation of Czechoslovakia in 1945, many thousands of Czechoslovak Jews were transported from the Terezin ghetto in Czechoslovakia to the concentration camp at Oswiecziem (Auschwitz) in Poland and were there killed in the gas chambers." From the territory over which Frick was Protector to the gas chamber.

Thus, we submit, it has been shown that Frick was a key conspirator from 1923 until the Allied armies crushed the resistance of the Nazi armed forces. Frick's guilt rests on his own record and on the record of his co-defendants, for whom he is co-responsible under our Charter.

I would like to express my deep appreciation for the assistance rendered in connection with the preparation of this case by my colleagues Mr. Karl Lachmann, Lt. Frederick Felton, and Captain Seymour Krieger.

(At 1720 hours the Tribunal adjourned.)